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Federal Register

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0038; Airspace Docket No. 07–ANM–16]

Establishment of Low Altitude Area Navigation Route (T-Route); Southwest Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a low altitude Area Navigation (RNAV) route, designated T–274 in the State of Oregon. T-routes are low altitude Air Traffic Service (ATS) routes, based on RNAV, for use by aircraft having instrument flight rules (IFR)-approved Global Positioning System (GPS)/Global Navigation Satellite System (GNSS) equipment. The FAA is taking this action to enhance safety and improve the efficient use of the navigable airspace in Oregon.

DATES: *Effective Date:* 0901UTC, September 25, 2008. 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: Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On February 14, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish a low altitude T-route in southwest Oregon (73 FR 8628). Interested parties were invited to participate in this rulemaking effort by submitting written comments on this proposal to the FAA. Four comments were received in response to the NPRM, each supporting the establishment of the route and recommending lower minimum en route altitudes (MEA). The Aircraft Owners and Pilots Association recommended the FAA modify its proposal to ensure that T–274 has a lower MEA than current Very High Frequency Omnidirectional Range (VOR) Federal airways. Regarding route altitudes, the charted depiction will include MEA requirements which are established in accordance with 14 CFR part 95. The establishment of MEAs is outside the scope of this rule.

Low altitude RNAV routes are published in paragraph 6011 of FAA Order 7400.9R signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The low altitude RNAV routes listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 establishes a low altitude RNAV route in southwest Oregon. The route is designated T–274, and will be depicted on the appropriate IFR En Route Low Altitude charts. T-routes are low altitude RNAV ATS routes, similar to VOR Federal airways, but based on GNSS navigation. RNAV-equipped aircraft capable of filing flight plan equipment suffix ''G'' may file for these routes.

The T-route described in this rule will enhance safety, and facilitate more flexible and efficient use of the navigable airspace for en route IFR operations transitioning through mountainous terrain of southwest Oregon.

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes an RNAV T-route in southwest Oregon.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a, 311b, and 311k. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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 part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6011 Contiguous United States Area Navigation Routes

* * * * *

T–274 CRAAF to Newport, OR (ONP) [New]

CRAAF
Fix (lat. 44°45′37″ N., long. 123°21′06″ W.)
Newport, OR (ONP)
VORTAC (lat. 44°34′31″ N., long. 124°03′38″ W.)

* * * * *

Issued in Washington, DC, on June 23, 2008.

Ellen Crum,

Acting Manager, Airspace and Rules Group.

[FR Doc. E8–15020 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 530

[Docket No. FDA–2008–N–0326]

New Animal Drugs; Cephalosporin Drugs; Extralabel Animal Drug Use; Order of Prohibition

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order prohibiting the extralabel use of cephalosporin antimicrobial drugs in food-producing animals. We are issuing this order based on evidence that extralabel use of these drugs in food-producing animals will likely cause an adverse event in humans and, as such, presents a risk to the public health.

DATES: This rule becomes effective October 1, 2008. Submit written or electronic comments on this document by September 2, 2008.

ADDRESSES: You may submit comments, identified by [Docket No. FDA–2008–N–0326], by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Neal Bataller, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7519 Standish Pl., Rockville, MD, 20855, 240–276–9200, e-mail: *neal.bataller@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. AMDUCA

The Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA) (Public Law 103–396) was signed into law on October 22, 1994. It amended the Federal Food, Drug, and Cosmetic Act (the act) to permit licensed veterinarians to prescribe extralabel uses of approved animal and human drugs in animals. In the **Federal Register** of November 7, 1996 (61 FR 57732), we published the implementing regulations (codified at part 530 (21 CFR part 530)) for AMDUCA. The sections regarding prohibition of extralabel use of drugs in animals are § § 530.21, 530.25, and 530.30. These sections describe the basis for issuing an order prohibiting an extralabel drug use in animals and the procedure to be followed in issuing an order of prohibition.

We may issue a prohibition order if we find that extralabel use of a drug in animals presents a risk to the public health. Under § 530.3(e), this means that we have evidence demonstrating that the use of the drug has caused, or likely will cause an adverse event.

Section 530.25 provides for a public comment period of not less than 60 days. It also provides that the order of prohibition become effective 90 days after the date of publication, unless we revoke or modify the order, or extend the period of public comment. The list of drugs prohibited from extralabel use is found in § 530.41.

B. Cephalosporins

Cephalosporins are members of the β-lactam class of antimicrobials. These antimicrobials work by targeting synthesis of the bacterial cell wall, resulting in increased permeability and eventual hydrolysis of the cell. Members of the cephalosporin class have a β-lactam ring fused to a sulfur-containing ring-expanded system (Ref. 1).

Certain cephalosporins are currently approved for use in a number of animal species. These approved uses include the treatment of respiratory disease in cattle, swine, sheep, and goats, as well as acute bovine interdigital necrobacillosis, acute metritis, and clinical and sub-clinical mastitis in cattle. They are also approved for the control of bovine respiratory disease, and the control of early mortality associated with *Escherichia coli* infections in day-old chicks and poults. Furthermore, approved animal uses of cephalosporins include the treatment of skin and soft tissue infections in dogs and cats, genitourinary tract infections (cystitis) in dogs, and respiratory tract infections in horses.

Cephalosporins are also some of the most widely used antimicrobial agents in human medicine. Older agents are widely used as therapy for skin and soft tissue infections caused by *Staphylococcus aureus* and *Streptococcus pyogenes*, as well as treatment of upper respiratory tract infections, intra-abdominal infections, pelvic inflammatory disease, and diabetic foot infections. Newer cephalosporins, with or without aminoglycosides, have been considered drugs of choice for serious infections caused by *Klebsiella*, *Enterobacter*, *Proteus*, *Providencia*, *Serratia*, and *Haemophilus* spp. These cephalosporins are also used to treat systemic salmonellosis, although not specifically approved for this purpose. Fourth

generation cephalosporins are indicated for treatment of urinary tract infections, febrile neutropenia, intra-abdominal infections, pneumonia, and skin and skin structure infections (Ref. 2).

FDA is concerned that the extralabel use of cephalosporins in food-producing animals is likely to lead to the emergence of cephalosporin-resistant strains of foodborne bacterial pathogens. If these drug-resistant bacterial strains infect humans, it is likely that cephalosporins will no longer be effective for treating disease in those people. Therefore, FDA is issuing an order prohibiting the extralabel use of cephalosporins because, as discussed in section II of this document, the agency has determined that such extralabel use will likely cause an adverse event and as such presents a risk to the public health.

II. Basis for Prohibiting the Extralabel Use of Cephalosporins

A. Cephalosporin-Resistant Zoonotic Foodborne Bacteria

A recent review of β-lactam resistance in bacteria of animal origin states that an emerging issue of concern is the increase in reports of broad-spectrum β-lactamases (CMY–2 and CTX–M) (Ref. 3). Acquired resistance to β-lactams in animal isolates has been observed in surveillance programs such as the Canadian Integrated Program for Antimicrobial Resistance Surveillance (CIPARS), Danish Integrated Antimicrobial Resistance Monitoring and Research Programme (DANMAP), and the U.S. National Antimicrobial Resistance Monitoring System (NARMS).

The 2005 European Antimicrobial Resistance Surveillance System (EARSS) report indicated that most European countries reported less than 5 percent resistance to third generation cephalosporins in foodborne pathogens including *Enterococcus faecalis*, *E. faecium*, and *E. coli*. However, the report noted that resistance was rising in 23 of 28 countries, with significant trends identified for 15 countries. The EARSS report states that third generation cephalosporin resistance appears to be increasing rapidly, even in countries with formerly very low levels of resistance (Ref. 4).

Ceftiofur is a third generation cephalosporin approved for certain uses in animals. Since 1997, the NARMS program has monitored ceftiofur resistance in *Salmonella* isolated from food-producing animals at slaughter. In 1997, no isolates from cattle or swine were resistant to ceftiofur, while ceftiofur resistance among isolates from chickens and turkeys was 0.5 percent and 3.7 percent, respectively. By 2006, the prevalence of ceftiofur resistance among *Salmonella* slaughter isolates increased to 18.8 percent for cattle, 2.0 percent for swine, 12.8 percent for chickens, and 5.3 percent for turkeys (Ref. 5).

Food-producing animals have been shown to be a source of resistant *Salmonella* infections in humans (Ref. 6). Data collected as part of NARMS have shown an increase in multi-drug resistance among *Salmonella* isolates from humans, including resistance to third generation cephalosporins. The prevalence of ceftiofur resistance among non-Typhi *Salmonella* isolates from humans rose from 0.2 percent in 1996 to 3.4 percent in 2004. A similar trend was observed over this same period (i.e., 1996 to 2004) for decreased susceptibility to ceftriaxone, a third generation cephalosporin approved for use in humans (Ref. 7).

Although ceftiofur is not used in human medicine, the observed trend of increasing resistance to this drug in human isolates highlights concerns about the movement of foodborne bacterial pathogens between animals and humans. In particular, as discussed in more detail in this document, resistance to certain cephalosporins is of public health concern in light of the evidence of cross-resistance among drugs in the cephalosporin class. Expanded-spectrum cephalosporins (e.g., ceftriaxone and cefotaxime) are the antimicrobial agents of choice for invasive *Salmonella* infections of pediatric patients (Ref. 8). FDA believes that the surveillance data cited supports the finding that certain cephalosporin use in animals is likely contributing to an increase in cephalosporin-resistant human pathogens.

B. Scope of Order of Prohibition

The cephalosporins are one of the most diverse classes of antimicrobials, and have been subject to several different classification schemes, including those using chemical structure, microbial activity, pharmacokinetics, or marketing date to divide the various molecular entities into distinct groups. While there is considerable overlap among proposed schemes, individual cephalosporin drugs do not always fall into the same groups in all classifications. For example, a commonly used scheme that classifies cephalosporins into ''generations'' provides some general idea of the first marketing date for the various cephalosporins. However, classification by generation does not necessarily group together cephalosporins with similar microbiological or pharmacokinetic characteristics. Therefore, because classification into ''generations'' is not based on specific properties of individual cephalosporins, there can be disagreement on which drugs belong in which generation.

FDA considered the possibility of limiting the order of prohibition to certain individual cephalosporin drugs or to certain generations of cephalosporins. However, given the potential for confusion regarding the classification of individual cephalosporin drugs into various generations, FDA concluded that it would be problematic to define the scope of the prohibition based on cephalosporin ''generation.'' Furthermore, as discussed in more detail in this document, data regarding mechanisms by which bacteria become resistant to cephalosporins have demonstrated cross-resistance among various individual cephalosporin drugs and among various generations of cephalosporin drugs.

In general, there are three mechanisms by which bacteria become resistant to antimicrobial agents: (1) Alteration of the antimicrobial target, (2) efflux of the antimicrobial or changes in permeability of the bacterial cell, and (3) inactivation of the antimicrobial agent itself. Gram negative bacterial resistance to cephalosporins occurs mainly through inactivation of the cephalosporin by β-lactamases. These enzymes can be both innate and acquired (Ref. 9).

Among bacteria of human health concern, the two most important classes of β-lactamase enzymes are the AmpC cephalosporinases and the extended-spectrum β-lactamases (ESBL). AmpC enzymes are found on the chromosome of most *Enterobacteriaceae*, and are also currently found on promiscuous plasmids in *Salmonella* and *E. coli*. These enzymes provide resistance to first, second, and third generation cephalosporins. ''Fourth generation'' cephalosporins are active in vitro against AmpC producing bacteria, but there is some disagreement as to the clinical significance of that activity. The AmpC enzymes are currently the predominant β-lactamases associated with *Salmonella* collected from animals and humans in the United States displaying resistance to ceftiofur and decreased susceptibility to ceftriaxone (Ref. 3).

ESBLs present in bacteria of human health concern include members of the TEM, SHV, and CTX–M families. These enzymes are plasmid mediated and have the potential to provide resistance to all

cephalosporins. Different ESBLs hydrolyze different cephalosporins at different efficiencies and rates, thus leading to varying patterns of in vitro susceptibility. However, although a particular ESBL may not raise the minimum inhibitory concentration (MIC) for a given cephalosporin to a level above the breakpoint for resistance, these strains commonly prove to be resistant in vivo (Ref. 9). Therefore, there are specific guidelines for screening bacterial isolates for the presence of ESBLs when MIC's fall in the susceptible range. Any bacterial isolate which produces either an AmpC enzyme or an ESBL is reported to clinicians as resistant to all cephalosporins even though susceptibility testing may show in vitro susceptibility to some of the cephalosporins (Ref. 10). Thus, regardless of in vitro susceptibility results, the effect of resistance mediated by an AmpC enzyme or ESBL is that the organism is treated as if it is cross-resistant to all cephalosporins.

In a review of the CTX–M family of ESBLs, Livermore et al. (Ref. 11) noted that until the late 1990s, European surveys found the TEM and SHV families of ESBLs almost exclusively. CTX–M enzymes were recorded rarely, although large outbreaks of *Salmonella Typhimurium* with CTX–M–4 and CTX–M–5 were reported in Latvia, Russia, and Belarus in the mid 1990s. However, CTX–M enzymes are now the predominant ESBLs in many European countries, and *E. coli* has joined *Klebsiella pneumoniae* as a major host. CTX–M enzymes are supplanting TEM and SHV in East Asia as well as in Europe. Only in North America do TEM and SHV still predominate, although CTX–M enzymes have been occasionally detected. Once mobilized, CTX–M enzymes can be hosted by many different genetic elements, but are most often found on large multi-drug resistance plasmids. Therefore, FDA is concerned that if CTM–X becomes prevalent in the United States, as has occurred in other countries, cephalosporin resistance may escalate.

Given that β-lactamases have been identified in zoonotic bacteria of human health concern, and given that β-lactamases can impart cross-resistance among cephalosporins (Ref. 12), FDA concluded that measures to prohibit extralabel use should be directed at the entire cephalosporin class of drugs.

C. Extralabel Use of Cephalosporins in Animals

As summarized previously, certain cephalosporins are currently approved for use in a number of animal species for a variety of indications. However, under the provisions of AMDUCA, cephalosporins that are approved for use in animals or humans may be used in an extralabel manner in animals provided certain conditions are met. Although few data are available regarding the extent to which such extralabel use currently occurs in the various food-producing animal species, evidence exists that extralabel use is occurring. FDA conducted inspections at U.S. poultry hatcheries in 2001 and examined records relating to the hatcheries' antimicrobial use during the 30-day period prior to inspection. FDA found that six of the eight hatcheries inspected that used ceftiofur during that period were doing so in an extralabel manner (Ref. 13). For example, ceftiofur was being administered at unapproved dosing levels or by unapproved methods of administration. In particular, ceftiofur was being administered by egg injection, rather than by the approved method of administering the drug to day-old chicks.

As is recognized for the use of antimicrobial drugs in general, the use of cephalosporins provides selection pressure that favors expansion of resistant variants. FDA believes the extralabel use of cephalosporins likely will contribute to the emergence of resistance and compromise human therapy. Given the importance of the cephalosporin class of drugs for treating disease in humans, FDA believes that preserving the effectiveness of such drugs is critical. Therefore, FDA believes it is necessary to take action to limit the extent to which extralabel use of cephalosporin in animals may be contributing to the emergence of resistant variants.

FDA is particularly concerned about the extralabel use of cephalosporins in food-producing animals given that such animals are known reservoirs of foodborne bacterial pathogens such as *Salmonella*. Based on information regarding cephalosporin resistance as discussed previously, FDA believes it is likely that the extralabel use of cephalosporins in food-producing animals is contributing to the emergence of cephalosporin-resistant zoonotic foodborne bacteria. Therefore, FDA has determined that such extralabel use likely will cause an adverse event and, as such, presents a risk to the public health.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Division of Dockets Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic comments or submissions will be accepted by FDA only through FDMS at *http://www.regulations.gov.*

IV. Order of Prohibition

Therefore, I hereby issue the following order under § § 530.21 and 530.25. We find that extralabel use of the cephalosporin class of antimicrobial drugs in food-producing animals likely will cause an adverse event, which constitutes a finding that extralabel use of these drugs presents a risk to the public health. Therefore, we are prohibiting the extralabel use of the cephalosporin class of antimicrobial drugs in food-producing animals.

V. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Livermore, D. M. and L. D. Williams, ''β-Lactams: Mode of Action and Mechanisms of Resistance,'' pp. 502–578, Victor Lorian (ed.), *Antibiotics in Laboratory Medicine,* Williams & Wilkins, Baltimore, 1991.

2. U.S. Food and Drug Administration, Maxipime (cefepime hydrochloride) for injection, NDA 50–679/S–021, *http://www.fda.gov/medwatch/SAFETY/2003/03MAR_PI/Maxipime_PI.pdf* (accessed March 13, 2007).

3. Li, X. Z., M. Mehrotra, S. Ghimire, and L. Adewoye, ''β-Lactam Resistance and β-Lactamases in Bacteria of Animal Origin,'' *Veterinary Microbiology*, 121:197–214, 2007.

4. European Antimicrobial Resistance Surveillance System, EARSS Annual Report 2005, pp. 1–147, Bilthoven, The Netherlands, 2006.

5. U.S. Department of Health and Human Services, National Antimicrobial Resistance Monitoring System/Enteric Bacteria (NARMS/EB) Salmonella Annual Veterinary Isolates Data, U.S. Department of Agriculture, *http://www.ars.usda.gov/Main/docs.htm?docid=6750&page=4*, 2006.

6. Holmberg, S. D., J. G. Wells, and M. L. Cohen, ''Animal-to-Man Transmission of Antimicrobial-Resistant *Salmonella*: Investigations of U.S. Outbreaks, 1971–1983,'' *Science*, 225:833–835, 1984.

7. CDC, ''National Antimicrobial Resistance Monitoring System for Enteric Bacteria (NARMS): Human Isolates Final Report,'' 2004, Atlanta, GA, U.S. Department of Health and Human Services, CDC, 2007.

8. Giles, W.P. , A. K. Benson, M. E. Olson, R. W. Hutkins, J. M. Whichard, P. L. Winokur, and P. D. Fey, ''DNA Sequence Analysis of Regions Surrounding blaCMY–2 From Multiple *Salmonella* Plasmid Backbones,'' *Antimicrobial Agents and Chemotherapy*, 48:2845–2852, 2004.

9. Livermore, D. M., ''Beta-Lactamases in Laboratory and Clinical Resistance,'' *Clinical Microbiology Review*, 8:557–584, 1995.

10. Clinical and Laboratory Standards Institute, Performance Standards for Antimicrobial Susceptibility Testing: Sixteenth Informational Supplement, M100-S16, Wayne, PA, USA: CLSI, 2006.

11. Livermore, D. M., R. Canton, M. Gniadkowski, P. Nordmann, G. M. Rossolini, G. Arlet, J. Ayala, T. M. Coque, I. Kern-Zdanowicz, F. Luzzaro, L. Poirel, and N. Woodford, ''CTX–M: Changing the Face of ESBLs in Europe,'' *Journal of Antimicrobial Chemotherapy*, 59:165–174, 2007.

12. Jacoby, G. A. and L. S. Munoz-Price, ''The New B-Lactamases,'' *New England Journal of Medicine*, 352:380–391, 2005.

13. U.S. Food and Drug Administration, Center for Veterinary Medicine, unpublished report, Summary of Data From Hatchery Inspections Conducted September-October 2001, April 15, 2002.

List of Subjects in 21 CFR Part 530

Administrative practice and procedure, Advertising, Animal drugs, Labeling, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Veterinary Medicine, 21 CFR part 530 is amended as follows:

PART 530—EXTRALABEL DRUG USE IN ANIMALS

■ 1. The authority citation for 21 CFR part 530 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 351, 352, 353, 355, 357, 360b, 371, 379e.

■ 2. In § 530.41, add paragraph (a)(13) to read as follows:

§ 530.41 Drugs prohibited for extralabel use in animals.

(a) * * *

(13) Cephalosporins.

* * * * *

Dated: June 24, 2008.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E8–15052 Filed 7–2–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9406]

RIN 1545–BH03

Modifications to Subpart F Treatment of Aircraft and Vessel Leasing Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations addressing the treatment of certain income and assets related to the leasing of aircraft or vessels in foreign commerce under sections 367, 954, and 956 of the Internal Revenue Code (Code). The regulations reflect statutory changes made by section 415 of the American Jobs Creation Act of 2004 (AJCA). In general, the regulations will affect United States shareholders of controlled foreign corporations that derive income from the leasing of aircraft or vessels in foreign commerce and U.S. persons that transfer property subject to these leases to a foreign corporation. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on July 3, 2008.

Applicability Dates: For dates of applicability, see §§ 1.367–2T(e)(2), 1.367–4T(c)(3)(i), 1.367–5T(f)(3)(ii), 1.954–2T(i) and 1.956–2T(e).

FOR FURTHER INFORMATION CONTACT: Concerning the temporary regulations under section 367, John H. Seibert, at (202) 622–3860; concerning the temporary regulations under section 954 or 956, Paul J. Carlino at (202) 622–3840; concerning submissions of comments, Richard A. Hurst at *Richard.A.Hurst@irscounsel.treas.gov* (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

In General

This document contains amendments to 26 CFR Part 1 under sections 367, 954 and 956 of the Code. Section 415(a) of the AJCA, Public Law 108–357 (118 Stat. 1418) repealed sections 954(a)(4) and (f), the foreign base company shipping income provisions of subpart F. Following repeal of the foreign base company shipping income provisions, rents derived from leasing an aircraft or vessel in foreign commerce may be included in subpart F income only if the rents are described in another category of subpart F income, such as foreign personal holding company income (FPHCI) defined in section 954(c). Rents are included in FPHCI under section 954(c)(1)(A). Section 954(c)(2)(A) excludes from FPHCI rents received from unrelated persons and derived in the active conduct of a trade or business.

Rents derived by a controlled foreign corporation (CFC) are considered to be derived in the active conduct of a trade or business if the rents are derived under any one of four circumstances described in the Treasury regulations under section 954(c)(2)(A). One such circumstance, provided in § 1.954–2(c)(1)(iv), is when rents are derived from property leased as a result of the performance of marketing functions by the lessor CFC. These rents are considered to be derived in the active conduct of a trade or business if the lessor CFC, through its own officers or staff of employees located in a foreign country, maintains and operates an organization in the foreign country that is regularly engaged in the business of marketing, or of marketing and servicing, the leased property and that is substantial in relation to the amount of rents derived from leasing the property.

Section 1.954–2(c)(2)(ii) provides that the determination of whether the organization in the foreign country is substantial in relation to the amount of rents derived is based on all the facts and circumstances. However, under § 1.954–2(c)(2)(ii), the organization will be considered substantial in relation to the amount of rents if active leasing expenses, as defined in § 1.954–2(c)(2)(iii), equal or exceed 25 percent of the adjusted leasing profit, as defined in § 1.954–2(c)(2)(iv).

Section 415(b) of the AJCA amended section 954(c)(2)(A) to create a new marketing safe harbor for the exclusion from FPHCI for rents derived from leasing an aircraft or vessel in foreign commerce. The amendment to section 954(c)(2)(A) provides:

> [R]ents derived from leasing an aircraft or vessel in foreign commerce shall not fail to be treated as derived in the active conduct of a trade or business if, as determined under regulations prescribed by the Secretary, the active leasing expenses are not less than 10 percent of the profit on the lease.

The legislative history of section 415(b) of the AJCA provides that the new safe harbor for rents derived from leasing an aircraft or vessel in foreign commerce ''is to be applied in accordance with the existing regulations under section

954(c)(2)(A) by comparing the lessor's 'active leasing expenses' for its pool of leased assets to its 'adjusted leasing profit.' '' H.R. Conf. Rep. No. 755, 108th Cong., 2d Sess. 389 (2004) (hereinafter 2004 Conference Report). The 2004 Conference Report includes in the definition of the term ''aircraft or vessel'' engines that are leased separately from an aircraft or vessel. *Id.* at 391.

An aircraft or vessel will qualify for the new safe harbor under section 954(c)(2)(A) only if it is leased in ''foreign commerce.'' The legislative history provides that, for purposes of this safe harbor,

> An aircraft or vessel will be considered to be leased in foreign commerce if it is used for the transportation of property or passengers between a port (or airport) in the United States and one in a foreign country or between foreign ports (or airports), provided the aircraft or vessel is used predominantly outside the United States. An aircraft or vessel will be considered used predominantly outside the United States if more than 50 percent of the miles during the taxable year are traversed outside the United States or the aircraft or vessel is located outside the United States more than 50 percent of the time during such taxable year.

Id. at 390.

As an alternative to the new safe harbor, the legislative history makes clear that a lessor may qualify for the marketing exception by satisfying a facts and circumstances test. The report of the House of Representatives provides that:

> The safe harbor will not prevent a lessor from otherwise showing that it actively carries on a trade or business. In this regard, the requirements of section 954(c)(2)(A) will be met if a lessor regularly and directly performs active and substantial marketing, remarketing, management and operational functions with respect to the leasing of an aircraft or vessel (or component engines).

H.R. Rep. No. 108–548, Part I, at 210 (2004).

The 2004 Conference Report also clarifies that the marketing exception for aircraft and vessels will apply whether the lessor engages in the marketing of the lease as a form of financing (versus marketing the property as such) or whether the lease is classified as a finance lease or operating lease for financial accounting purposes. 2004 Conference Report at 390. The exception will also apply to an existing lease acquired by a lessor, if, following the acquisition, the lessor performs active and substantial management, operational, and remarketing functions with respect to the leased property. *Id.* The 2004 Conference Report makes clear that a taxpayer no longer can claim FSC or ETI benefits for an existing FSC or ETI lease transferred to a CFC lessor. *Id.*

The legislative history directs the Secretary of the Treasury to make conforming changes to the current regulations ''including guidance that aircraft or vessel leasing activity that satisfies the requirements of section 954(c)(2)(A) shall also satisfy the requirements for avoiding income inclusion under section 956 and section 367(a).'' Id. This legislative history indicates that Congress anticipated that taxpayers might restructure their operations with minimal tax cost to take advantage of the new benefits under subpart F provided by section 415 of the AJCA, namely the repeal of the foreign base company shipping income provisions and a liberalized marketing safe harbor for excluding active leasing income from aircraft or vessels engaged in foreign commerce from FPHCI.

Notice 2006–48

Notice 2006–48 (2006–1 CB 922), released on May 2, 2006, provided guidance and announced the Treasury Department's and IRS' intention to amend the regulations under sections 367(a), 954, and 956 in accord with section 415 of the AJCA, and the accompanying legislative history. The notice provided that the future regulations would generally be effective beginning on or after May 2, 2006. These temporary regulations incorporate the rules of Notice 2006–48 with minor changes. See § 601.601(d)(2)(ii)(b).

Explanation of Provisions

The temporary regulations provide guidance with respect to the treatment of certain income and assets related to the leasing of aircraft or vessels in foreign commerce under sections 367, 954, and 956 of the Code in light of section 415 of the AJCA.

Section 954 Regulations

The temporary regulations add a new marketing safe harbor for purposes of determining whether rents derived from leasing aircraft or vessels (including component parts, such as engines, that are leased separately from an aircraft or vessel) in foreign commerce qualify for the active rents exclusion under section 954(c)(2)(A). This new safe harbor provides that an organization will be considered substantial under § 1.954–2(c)(2)(ii) if active leasing expenses equal or exceed 10 percent of the adjusted leasing profit. The temporary regulations retain the rules in the current regulations regarding how to determine active leasing expenses and adjusted leasing profit and that as an alternative to the safe harbor test, a CFC can satisfy the substantiality test based upon its facts and circumstances. The temporary regulations also amend the current regulations to include a definition of foreign commerce and predominant use of an aircraft or vessel outside the United States in accordance with the definitions given such terms in the legislative history to section 415(b) of the AJCA. The temporary regulations also clarify that rents derived from certain finance leases and acquired leases are eligible for the active rents exclusion.

Section 956 Regulations

Section 956(c)(1)(A) provides that the term ''United States property'' generally includes tangible property located in the United States. Section 956(c)(2) provides exceptions to the general definition of U.S. property. Section 956(c)(2)(D) excludes from the term U.S. property any aircraft, railroad rolling stock, vessel, motor vehicle, or container used in the transportation of persons or property in foreign commerce and used predominantly outside the United States.

Section 1.956–2(b)(1)(vi) provides that whether an aircraft, railroad rolling stock, vessel, motor vehicle, or container is used predominantly outside the United States depends on the facts and circumstances in each case. The regulations also provide that as a general rule, such transportation property will be considered used predominantly outside the United States if 70 percent or more of the miles traversed in the use of such property are traversed outside the United States or if such property is located outside the United States 70 percent of the time during such taxable year. The temporary regulations amend § 1.956–2(b)(1)(vi) to provide that an aircraft or vessel is excluded from U.S. property if rents derived from leasing such aircraft or vessel are excluded from FPHCI under section 954(c)(2)(A).

Section 367 Regulations

Section 367 provides that if a U.S. person transfers property to a foreign corporation in an exchange described in sections 332, 351, 354, 356, or 361 of the Code, the foreign corporation will not be considered a corporation for purposes of determining the extent to which gain will be recognized on such transfer. However, section 367(a)(3)(A) generally provides an exception to this rule if the property is used by the foreign corporation in the active conduct of a trade or business outside of the United States. In general, this exception does not apply to property of which the

transferor is a lessor at the time of the transfer, unless the transferee is the lessee or the regulations provide otherwise.

Section 1.367(a)–2T(a) provides, in part, that section 367(a)(1) does not apply to property transferred to a foreign corporation if the property is transferred for use by that corporation in the active conduct of a trade or business outside of the United States and certain reporting requirements are met. Section 1.367(a)–2T(b)(3) provides that the principles of § 1.954–2(d)(1) are used to determine whether a trade or business that produces rents or royalties is actively conducted, without regard to whether the rents or royalties are received from an unrelated person. Section 1.367(a)–2T(b)(4) provides generally that a foreign corporation conducts a trade or business outside of the United States if the primary managerial and operational activities of the trade or business are located outside of the United States and if immediately after the transfer the transferred assets are located outside of the United States.

Section 1.367(a)–4T(c) through (f) contains rules for determining whether certain types of property are transferred for use in the active conduct of a trade or business outside the United States. Section 1.367(a)–4T(c)(1) provides that if the transferred property will be leased by the transferee foreign corporation, the property generally is considered to be transferred for use in the active conduct of a trade or business outside of the United States only if all three of the following conditions are met: (i) The transferee's leasing constitutes the active conduct of a leasing business; (ii) the lessee does not use the property in the United States; and (iii) the transferee has need for substantial investment in assets of the type transferred.

Section 1.367(a)–4T(b)(1) provides that even if property qualifies for the active trade or business exception, when a U.S. person transfers U.S. depreciated property to a foreign corporation, that person must include as ordinary income in the year of the transfer the gain realized that would have been included as ordinary income under section 617(d)(1), 1245(a), 1250(a), 1252(a), or 1254(a) of the Code if the taxpayer had sold the property at its fair market value on the date of the transfer (section 367 recapture). Section 1.367(a)–4T(b)(2)(ii) provides that, for this purpose, U.S. depreciated property includes property that has been used in the United States or has qualified as section 38 property by virtue of section 48(a)(2)(B).

Section 1.367(a)–4T(b)(3) provides a methodology to compute the section 367 recapture amount if the property has been used partly outside the United States. In this circumstance, the amount of the section 367 depreciation recapture is determined by multiplying the full section 367 recapture amount by a fraction, the numerator of which is the U.S. use of the property and denominator of which is the total use of the property. For this purpose, U.S. use is the number of months that the property either was used within the United States or qualified as section 38 property by virtue of section 48(a)(2)(B) and was subject to depreciation by the transferor or a related person. Total use is the total number of months that the property was used (or was available for use), and subject to depreciation, by the transferor or a related person. Property is not considered to be used outside the United States during any period in which the property was, for purposes of section 38 or 168, treated as property not used predominantly outside the United States pursuant to the provisions of section 48(a)(2)(B).

Section 1.367(a)–5T(f) provides that, regardless of use in an active trade or business, section 367(a)(1) applies to a transfer of tangible property with respect to which the transferor is a lessor at the time of the transfer unless: (i) The transferee was the lessee and the transferee will not lease to third persons; or (ii) the transferee will lease to third persons and the transferee satisfies the conditions of § 1.367(a)–4T(c)(1) or (2).

The temporary regulations amend the section 367(a) regulations to provide that the principles of section 954(c)(2)(A) and the related regulations shall apply to determine whether a trade or business that produces rents or royalties is actively conducted under § 1.367(a)–2T(b)(3). For purposes of applying § 1.367(a)–2T(b)(4), § 1.367(a)–4T(c)(3) provides that the substantial managerial and operational activities of the trade or business of leasing an aircraft or vessel must be conducted outside of the United States, and the aircraft or vessel must be used predominantly outside of the United States, as defined in section 954 and under the amended regulation. A lessee that uses an aircraft or vessel predominantly outside of the United States will satisfy the requirement in § 1.367(a)–4T(c)(1)(ii).

In addition, Notice 2006–48 states that the Treasury Department and IRS were considering future guidance regarding how to determine whether an aircraft or vessel was used predominantly outside the United States for a particular month for purposes of calculating section 367 recapture. The Notice also states that until further guidance is issued, taxpayers are permitted to use any reasonable method to make this determination. The Treasury Department and IRS continue to study this issue and therefore taxpayers may continue to use any reasonable method to make this determination until further guidance is issued.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. Ch. 6) please refer to the cross-reference notice of proposed rule making published elsewhere in this **Federal Register**. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are John H. Seibert and Paul J. Carlino, Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

■ **Par. 2.** Section 1.367(a)–2T is amended by adding paragraph (e) to read as follows:

§ 1.367(a)–2T Exception for transfers of property for use in the active conduct of a trade or business (temporary).

* * * * *

(e) *Special rules for certain transfers occurring on or after May 2, 2006*—(1) *General rule.* Whether a trade or business that produces rents or royalties is actively conducted shall be determined under the principles of section 954(c)(2)(A) and the

accompanying regulations (but without regard to whether the rents or royalties are received from an unrelated party). See § 1.954–2(c) and (d).

(2) *Effective/applicability date.* The rules of this paragraph (e) apply to transfers occurring on or after May 2, 2006. However, if the transferor makes the election to apply the provisions of § 1.367(a)–4T(c)(3)(i) for transfers occurring on or after October 22, 2004, then paragraph (e)(1) will also be applicable for the transfers occurring on or after October 22, 2004.

(3) *Expiration date.* The applicability of this paragraph (e) will expire on July 1, 2011.

■ **Par. 3.** Section 1.367(a)–4T is amended by adding paragraphs (c)(3) and (i) to read as follows:

§ 1.367(a)–4T Special rules applicable to specified transfers of property (temporary).

* * * * *

(c) * * *

(3) *Aircraft and vessels leased in foreign commerce*—(i) *In general.* For the purposes of satisfying paragraph (c)(1) of this section, aircraft or vessels, including component parts such as engines leased separately from aircraft or vessels, transferred to a foreign corporation and leased to other persons by the foreign corporation shall be considered to be transferred for use in the active conduct of a trade or business if—

(A) The employees of the foreign corporation perform substantial managerial and operational activities of leasing aircraft or vessels outside the United States; and

(B) The leased tangible personal property is predominantly used outside the United States, as determined under § 1.954–2T(c)(2)(v).

* * * * *

(i) *Effective/applicability date.* (1) The rules of paragraph (c)(3) of this section apply for transfers of property occurring on or after May 2, 2006. Transferors may elect to apply these provisions to transfers occurring on or after October 22, 2004, by citing the provisions of paragraph (c)(3) of this section in the documentation for such transfers required by § 1.6038B–1T(c)(4)(i) and (iv).

(2) *Expiration date.* The applicability of paragraph (c)(3) of this section will expire on July 1, 2011.

■ **Par. 4.** Section § 1.367(a)–5T is amended by adding paragraph (f)(3) to read as follows:

§ 1.367(a)–5T Property subject to section 367(a)(1) regardless of use in a trade or business (temporary).

* * * * *

(f) * * *

(3)(i) With respect to vessels and aircraft, including their component parts, that will be leased by the transferee to third persons, the transferee satisfies the conditions set forth in § 1.367(a)–4T(c).

(ii) *Effective/applicability date.* The rules of this paragraph (f)(3) apply for transfers of property occurring on or after May 2, 2006. If the transferor makes the election to apply the provisions of § 1.367(a)–4T(c)(3) to transfers occurring on or after October 22, 2004, then paragraph (f)(3)(i) of this section will also be applicable for the transfers affected by that election.

(iii) *Expiration date.* The applicability of this paragraph (f)(3) will expire on July 1, 2011.

■ **Par. 5.** Section 1.954–2 is amended as follows:

■ 1. Paragraph (c)(2)(ii) is revised.

■ 2. Paragraphs (c)(2)(v), (c)(2)(vi), (c)(2)(vii) and (c)(3) *Example 6, and (i)* are added. The revision and additions read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(c) * * *

(2) * * *

(ii)[Reserved]. For further guidance, see § 1.954–2T(c)(2)(ii).

* * * * *

(v) [Reserved]. For further guidance, see § 1.954–2T(c)(2)(v).

(vi) [Reserved]. For further guidance, see § 1.954–2T(c)(2)(vi).

(3) * * *

Example 6. [Reserved]. For further guidance, see § 1.954–2T(c)(3) *Example 6.*

* * * * *

(i) [Reserved]. For further guidance, see § 1.954–2T(i).

■ **Par. 6.** Section 1.954–2T is added to read as follows:

§ 1.954–2T Foreign personal holding company income (temporary).

(a) through (c)(2)(i) [Reserved]. For further guidance see, § 1.954–2(a) through (c)(2)(i).

(ii) *Substantiality of foreign organization.* For purposes of paragraph (c)(1)(iv) of this section, whether an organization in a foreign country is substantial in relation to the amount of rents is determined based on all facts and circumstances. However, such an organization will be considered substantial in relation to the amount of rents if active leasing expenses, as defined in paragraph (c)(2)(iii) of this section, equal or exceed 25 percent of the adjusted leasing profit, as defined in paragraph (c)(2)(iv) of this section. In addition, for purposes of *aircraft or vessels* leased in foreign commerce, an organization will be considered substantial if active leasing expenses, as defined in paragraph (c)(2)(iii) of this section, equal or exceed 10 percent of the adjusted leasing profit, as defined in paragraph (c)(2)(iv) of this section. For purposes of paragraphs (c)(1)(iv) and (c)(2) of this section and § 1.956–2T(b)(1)(vi), the term *aircraft or vessels* includes component parts, such as engines that are leased separately from an aircraft or vessel.

(c)(2)(iii) through (c)(2)(iv) [Reserved]. For further guidance see, § 1.954–2(c)(2)(iii) through (c)(2)(iv).

(v) *Leased in foreign commerce.* For purposes of paragraph (c)(1)(iv) and (2)(ii) of this section, an aircraft or vessel is considered to be leased in foreign commerce if the aircraft or vessel is used in foreign commerce and is used predominately outside the United States. For purposes of this paragraph (c)(2)(v), an aircraft or vessel is considered to be leased in foreign commerce if used for the transportation of property or passengers between a port (or airport) in the United States and one in a foreign country or between foreign ports (or airports) provided the aircraft or vessel is used predominantly outside the United States. An aircraft or vessel will be considered to be used predominantly outside the United States if more than 50 percent of the miles traversed during the taxable year in the use of such property are traversed outside the United States or if the aircraft or vessel is located outside the United States more than 50 percent of the time during the taxable year.

(vi) *Leases acquired by the CFC lessor.* Except as provided in this paragraph (c)(2)(vi), the exception in paragraph (c)(1)(iv) of this section will also apply to rents from leases acquired from any person, if following the acquisition the lessor performs active and substantial management, operational, and remarketing functions with respect to the leased property. However, if any person is claiming a benefit with respect to an acquired lease pursuant to sections 921 or 114 of the Internal Revenue Code or section 101(d) of the American Jobs Creation Act of 2004, Public Law 108–357 (118 Stat. 1418) (2004), the rents from such lease, notwithstanding § 1.954–2(b)(6), (2)(c) and the remainder of this section, are ineligible for the exception in section 954(c)(2)(A).

(vii) *Finance leases.* Paragraph (c)(1)(iv) of this section can apply to a lessor engaged in the marketing of leases that are treated as finance leases for

financial accounting purposes but are treated as leases for Federal income tax purposes.

(3) *Examples 1* through *5* [Reserved]. For further guidance, see § 1.954–2(c)(3) *Examples 1* through *5.*

Example 6. The facts are the same as in *Example 2,* except that controlled foreign corporation D purchases aircraft which it leases to others. If Corporation D incurs active leasing expenses, as defined in paragraph (c)(2)(iii) of this section, equal to or in excess of 10 percent of its adjusted leasing profit, as defined in paragraph (c)(2)(iv) of this section, the rental income of Corporation D from its leases with the unrelated foreign corporations is substantial and will be considered as derived in the active conduct of a trade or business for purposes of section 954(c)(2)(A). If a particular aircraft subject to lease was not used by the lessee corporation in foreign commerce, for example, because 50 percent or less of the miles during the taxable year were traversed outside the United States and the aircraft was located in the United States for 50 percent or more of the taxable year, Corporation D is not prevented from otherwise showing that it actively carries on a trade or business with regard to the rents derived from that aircraft, for example, based on its facts and circumstances, or as within the meaning of paragraph (c)(1)(i) or (iii) of this section.

(d) through (h) [Reserved]. For further guidance, see § 1.954–2(d) through (h).

(i)(1) *Effective/applicability date.* Paragraph (c) of this section applies to taxable years of controlled foreign corporations beginning on or after May 2, 2006, and for tax years of United States shareholders with or within which such tax years of the controlled foreign corporations ends. Taxpayers may elect to apply paragraph (c) of this section to taxable years of controlled foreign corporations beginning after December 31, 2004, and for tax years of United States shareholders with or within which such tax years of the controlled foreign corporations end. If an election is made to apply paragraph (b)(1)(vi) of this section to taxable years beginning after December 31, 2004, then the election must also be made for paragraph (c) of this section.

(2) *Expiration date.* The applicability of § 1.954–2T(c) will expire on July 1, 2011.

■ **Par. 7.** Section 1.956–2 is amended as follows:

■ 1. Paragraph (b)(1)(vi) is revised.

■ 2. Paragraph (e) is added.

The revisions and addition read as follows:

§ 1.956–2 Definition of United States property.

* * * * *

(b) * * *

(1) * * *

(vi) [Reserved]. For further guidance, see § 1.956–2T(b)(1)(vi).

* * * * *

(e) [Reserved]. For further guidance, see § 1.956–2T(e).

■ **Par. 8.** Section 1.956–2T is amended as follows:

■ 1. Paragraphs (a), (b), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(1)(iv), (b)(1)(v), (b)(i)(vi), (c), (d) and (d)(1) are added.

■ 2. Paragraph (e) is added.

The revisions and addition read as follows:

§ 1.956–2T Definition of United States property (temporary).

(a) through (b)(1)(v) [Reserved]. For further guidance, see § 1.956–2(a) through (b)(1)(v).

(vi) Any aircraft, railroad rolling stock, vessel, motor vehicle, or container used in the transportation of persons or property in foreign commerce and used predominantly outside the United States. Whether transportation property described in this subdivision is used in foreign commerce and predominantly outside the United States is to be determined from all the facts and circumstances of each case. As a general rule, such transportation property will be considered to be used predominantly outside the United States if 70 percent or more of the miles traversed (during the taxable year at the close of which a determination is made under section 956(a)(2)) in the use of such property are traversed outside the United States or if such property is located outside the United States 70 percent of the time during such taxable year. Notwithstanding the above, an aircraft or vessel (as the term is defined in § 1.954–2T(c)(2)(ii)) is excluded from U.S. property if rents derived from leasing such aircraft or vessel are excluded from foreign personal holding company income under section 954(c)(2)(A). See paragraph (e) of this section for the effective/applicability dates of this paragraph (b)(1)(vi).

(c) through (d)(1) [Reserved]. For further guidance, see § 1.956–2(b)(1)(vii) through (d)(1).

* * * * *

(e) *Effective/applicability date.* Paragraph (b)(1)(vi) of this section applies to taxable years of controlled foreign corporations beginning on or after May 2, 2006, and for tax years of United States shareholders with or within which such tax years of the controlled foreign corporations end. Taxpayers may elect to apply the rule of this section to taxable years of controlled foreign corporations beginning after December 31, 2004, and for tax years of United States shareholders with or within which such tax years of foreign corporations end. If an election is made to apply § 1.954–2T(c) to taxable years of a controlled foreign corporation beginning after December 31, 2004, then the election must also be made for paragraph (b)(1)(vi) of this section.

(2) *Expiration date.* The applicability of paragraph (b)(1)(vi) of this section will expire on July 1, 2011.

Approved: June 23, 2008.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E8–14919 Filed 7–2–08; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4003

RIN 1212–AB15

Rules for Administrative Review of Agency Decisions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: Pension Benefit Guaranty Corporation (PBGC) is amending its regulation on Administrative Review of Agency Decisions to clarify that the agency's Appeals Board may refer certain categories of appeals to other PBGC departments for a written response and to remove determinations under section 4022A of the Employee Retirement Income Security Act of 1974 (ERISA) from the scope of part 4003. The amendments also include minor clarifying and technical changes to the rules for administrative review of agency decisions.

DATES: Effective August 4, 2008.

FOR FURTHER INFORMATION CONTACT: Joseph J. Shelton, Attorney, Office of the General Counsel or Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: On October 18, 2007, PBGC published (at 72 FR 59050) a proposed rule to amend

PBGC's regulation on Administrative Review of Agency Decisions (29 CFR part 4003) to clarify that the agency's Appeals Board may refer certain categories of appeals to other PBGC departments for a written response, remove determinations under section 4022A of ERISA from the scope of part 4003, and make minor clarifying and technical changes to the rules for administrative review of agency decisions. PBGC received no public comments on the proposed rule and is finalizing the regulation as proposed.

Background

Current Rules for Administrative Review of Agency Decisions

PBGC administers the pension plan termination insurance program under Title IV of ERISA. Under PBGC's regulation for Administrative Review of Agency Decisions, persons aggrieved by certain PBGC determinations may appeal to the agency's Appeals Board. 29 CFR part 4003.

The powers of the Appeals Board are set forth in, among other places, § 4003.58 of the regulations. It states that ''the Appeals Board may request the submission of any information or the appearance of any person it considers necessary to resolve a matter before it and to enter any order it considers necessary for or appropriate to the disposition of any matter before it.'' 29 CFR 4003.58. The decision of the Appeals Board constitutes final agency action by PBGC with respect to the determination which was the subject of the appeal and is binding on all parties who participated in the appeal. 29 CFR 4003.59(b).

The Appeals Board reviews the following categories of determinations:

- Determinations that a plan is not covered under section 4021 of ERISA;
- Determinations under section 4022(a) or (c) or section 4022A(a) of ERISA with respect to benefit entitlement of participants and beneficiaries under covered plans and determinations that a domestic relations order is or is not a qualified domestic relations order under section 206(d)(3) of ERISA and section 414(p) of the Internal Revenue Code;
- Determinations under section 4022(b) or (c), section 4022A(b) through (e), or section 4022B of ERISA of the amount of benefits payable to participants and beneficiaries under covered plans;
- Determinations of the amount of money subject to recapture under section 4045 of ERISA;
- Determinations of the amount of liability under section 4062(b)(1), section 4063, or section 4064 of ERISA; and
- Determinations that the amount of a participant's or beneficiary's benefit under section 4050(a)(3) of ERISA has been correctly computed based on the designated benefit paid to PBGC under section 4050(b)(2) of ERISA, or that the designated benefit is correct, but only to the extent that the benefit to be paid does not exceed the participant's or beneficiary's guaranteed benefit.

29 CFR 4003.1(b)(5) through (b)(10). Additionally, nothing in part 4003 limits the authority of PBGC to review, either upon request or on its own initiative, a determination to which part 4003 does not apply when, in its discretion, it determines that it would be appropriate to do so. 29 CFR 4003.1(c)(1).

A person who is adversely affected by a determination involving any of the matters listed above has not exhausted his or her administrative remedies, and thus may not challenge the determination in court, until he or she has filed an appeal under § 4003.51 and a decision granting or denying the relief requested has been issued by the Appeals Board. 29 CFR 4003.7. An appeal must be filed within 45 days after the date of the determination being appealed, unless the appellant requests an extension of time to file within the 45-day period and the request is granted. 29 CFR 4003.52, 4003.4, 4003.5.

An appeal must be in writing, be clearly designated as an appeal, contain a statement of the ground on which it is based and the relief sought, reference all pertinent information already in the possession of PBGC, and include any additional information or data that the appellant believes is relevant. 29 CFR 4003.54. The filing of an appeal generally stays the effectiveness of a determination until a decision on the appeal has been issued by the Appeals Board. 29 CFR 4003.22(a), (b).

Appeals Board's Current Practice of Referring Certain Appeals to Other PBGC Departments

This final regulation formalizes the Appeals Board's practice of referring certain routine appeals, such as those that allege a mistake of fact or that request a more detailed benefit explanation, to other PBGC departments or Appeals Board staff for a written response. The practice began after the agency concluded that other PBGC departments, such as the Benefits Administration and Payment Department (BAPD), could handle these types of appeals efficiently given their familiarity with the relevant facts underlying the initial benefit determinations.

At the same time, the agency concluded that it would be appropriate for Appeals Board staff (rather than the Appeals Board) to respond to untimely and premature appeals, as well as appeals alleging that benefit reductions required by law will work a financial hardship. Appeals Board staff provide support to the Appeals Board in the areas of receipt, review, and closing of appeals and other correspondence. Appeals Board staff also analyze incoming correspondence to determine whether it should be addressed by the Appeals Board as an appeal, referred to another PBGC department, such as BAPD, or retained by Appeals Board staff for response as an inquiry, extension request, or a request for additional information.

In 2006, approximately 35% of the appeals received by the Appeals Board involved simple factual disputes, or requested only a more detailed explanation of a benefit determination. These appeals were referred to other PBGC departments for a response and were answered, on average, within 45 days. In situations where PBGC's initial determination is incorrect, BAPD can quickly resolve the matter, without the need for an Appeals Board decision, by issuing a corrected benefit determination. Similarly, if an appellant only requests—in the form of an appeal—a more detailed explanation of his or her initial benefit determination, BAPD can quickly provide a detailed explanation given its familiarity with the initial determination and the relevant participant data.

Under current practice, when an appeal is referred to another PBGC department or Appeals Board staff for a written response, the time period for filing a request for Appeals Board review is extended for an additional 30 days from the date of the written response. As discussed more fully below, under the final regulation, the time period for filing a request for Appeals Board review will be extended for an additional 45 days from the date of the PBGC department's or Appeals Board staff's written response.

Summary of Amendments

Powers of the Appeals Board

The regulation amends § 4003.58 of the regulations to clarify that the Appeals Board may refer certain appeals to other PBGC departments or Appeals Board staff for a response. Appeals that will be subject to referral include those that (1) request an explanation of a covered initial benefit determination, (2)

dispute specific data used in a covered initial determination, such as date of hire, date of retirement, date of termination of employment, length of service, compensation, marital status, and the form of benefit elected; or (3) request an explanation of the limits on benefits payable by PBGC under part 4022, subpart B, such as the maximum guaranteeable benefit and phase-in.

The PBGC department's or Appeals Board staff's response will be in writing and address the matters raised in the appeal. Alternatively, appeals referred to BAPD may be answered in the form of a corrected benefit determination. The written response or corrected benefit determination will provide that the appellant may file a written request for review by the Appeals Board within 45 days of the date of the written response or corrected benefit determination. If a written request for review is not filed with the Appeals Board within 45 days, the Appeals Board will not review the case and the initial determination or corrected benefit determination will become effective under § 4003.22(a).

A written response or corrected benefit determination will not be a decision of the Appeals Board within the meaning of § 4003.59 of the regulations. Thus, a person who is issued such a response or corrected benefit determination will not have exhausted his or her administrative remedies under § 4003.7 of the regulations unless and until he or she files a request for review by the Appeals Board and a decision granting or denying the relief requested has been issued.

Removal of Determinations Under ERISA Section 4022A

Under PBGC's multiemployer program, when a plan becomes insolvent, PBGC provides financial assistance to the plan sufficient to pay guaranteed benefits to participants and administrative expenses. Section 4022A of ERISA sets forth PBGC's guarantee for multiemployer pension plan benefits. A multiemployer plan is considered insolvent if the plan is unable to pay benefits (at least equal to PBGC's guaranteed benefit limit) when due. The plan must repay this financial assistance in accordance with terms and conditions specified by PBGC.

Unlike the situation with single-employer plans, however, PBGC does not trustee or otherwise assume responsibility for the liabilities of a financially troubled multiemployer plan. As a result, PBGC does not issue determinations under section 4022A of ERISA with respect to benefit entitlement of participants and beneficiaries. Accordingly, PBGC is amending § 4003.1(b)(6) and (7) to remove the reference to section 4022A. The effect of this amendment will be to remove determinations under section 4022A from the scope of part 4003.

Contents of Appeal

Section 4003.54(3) and (4) of the regulation are amended to reflect the plain language used in the ''Your Right to Appeal'' brochure that currently accompanies all benefit determinations and is available on PBGC's Web site, *http://www.pbgc.gov*.

Section 4003.54(3) states that an appeal shall ''[c]ontain a statement of the grounds upon which it is brought and the relief sought.'' Addressing the same requirement, the brochure states that an appeal must ''[s]pecifically explain why PBGC's determination is wrong and the result you are seeking.'' The regulation replaces the language in § 4003.54(3) with language similar to that which is currently used in the brochure.

PBGC is also amending § 4003.54(4) of the regulation, which states that an appeal shall ''[r]eference all pertinent information already in the possession of the PBGC and include any additional information believed to be relevant.'' Addressing the same requirement, the ''Your Right to Appeal'' brochure states, in part, that an appeal must ''[d]escribe the relevant information you believe is known by PBGC and include copies of documents that provide additional information that the Appeals Board should consider.'' The final regulation replaces the language in § 4003.54(4) with language similar to that which is currently used in the brochure.

Where To File

PBGC is amending § 4003.53 of the regulations, which provides information on where to file an appeal, to remove the filing address for appeals and requests for filing extensions because it is no longer accurate. In its place, PBGC is incorporating § 4000.4, which provides general instructions on where to file submissions to PBGC.

Replacing the Term ''Executive Director'' With ''Director'' in Part 4003

On August 17, 2006, the President signed into law the Pension Protection Act of 2006, Public Law 109–280 (''PPA 2006''). Section 411 of PPA 2006 amended section 4002(a) of ERISA to state that PBGC shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. Thus, PBGC is replacing all references to the term ''Executive Director'' in part 4003 with the term ''Director.'' *See* §§ 4003.2 (Definitions), 4003.4 (Extension of time); 4003.33 (Where to submit request for reconsideration), 4003.35 (Final decision on request for reconsideration); and 4003.60 (Referral of appeal to the Executive Director).

Applicability

The amendments in this final rule are applicable to appeals filed on or after the effective date of the final rule.

Compliance With Rulemaking Guidelines

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866. Pursuant to section 1(b)(1) of E.O. 12866 (as amended by Executive Order 13422), PBGC has determined that regulatory action is required in this area. Principally, this regulatory action is necessary to update PBGC's rules for administrative review of agency decisions to accurately reflect the agency's appeals handling procedures. In addition, because PBGC does not issue determinations under section 4022A of ERISA with respect to benefit entitlement of participants and beneficiaries, the final rule removes determinations under section 4022A of ERISA from the scope of part 4003. Finally, the final rule contains minor clarifying and technical changes to the rules for administrative review of agency decisions that will streamline the appeals process and make the rules governing administrative appeals easier to understand.

As a rule of agency organization, procedure, or practice, this rule is exempt from notice and public comment and delayed effective date requirements of section 553 of the Administrative Procedure Act. Because no general notice of proposed rulemaking was required, the Regulatory Flexibility Act does not apply to this rule. *See* 5 U.S.C. 601(2), 603, and 604. (Because the PBGC wished to provide an opportunity for public comment, the PBGC published a proposed rule).

PBGC has determined that these changes do not modify the information collection requirements under Administrative Appeals (OMB control number 1212–0061, expires 1/31/10).

List of Subjects in 29 CFR Part 4003

Administrative practice and procedure, Organization and functions (Government agencies), Pension insurance, Pensions.

■ For the reasons given above, PBGC is amending 29 CFR part 4003 as follows:

PART 4003—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

■ 1. The authority citation for part 4003 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

§ 4003.1 [Amended]

■ 2. In § 4003.1:
■ a. Paragraph (b)(6) is amended by removing the words ''or section 4022A(a)''.
■ b. Paragraph (b)(7) is amended by removing the words ''(c), section 4022A(b) through (e), or'' and adding in their place the words ''(c) or''.

§ 4003.2 [Amended]

■ 3. In § 4003.2:
■ a. The definition of *Appeals Board* is amended by removing the word ''Executive''.
■ b. The definition of *Director* is amended by removing the word ''Executive'' each place it appears in the definition.

§ 4003.4 [Amended]

■ 4. In § 4003.4, paragraph (b) introductory text is amended by removing the word ''Executive''.

§ 4003.33 [Amended]

■ 5. Section 4003.33 is amended by removing the word ''Executive''.

§ 4003.35 [Amended]

■ 6. In § 4033.35, paragraph (a)(2) is amended by removing the word ''Executive'' each place it appears in the paragraph.

§ 4003.53 [Amended]

■ 7. Section 4003.53 is amended by removing the words ''Appeals Board, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 2005–4026'' and adding in their place the words ''Appeals Board''.
■ 8. In § 4003.54, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 4003.54 Contents of appeal.

(a) * * *

* * * * *

(3) Specifically explain why PBGC's determination is wrong and the result the appellant is seeking;

(4) Describe the relevant information the appellant believes is known by PBGC, and summarize any other information the appellant believes is relevant. It is important to include copies of any documentation that support the appellant's claim or the appellant's assertions about this information;

* * * * *

■ 9. In § 4003.58:

■ a. The existing text of the section is redesignated as paragraph (a).

■ b. A new paragraph (b) is added to read as follows:

§ 4003.58 Powers of the Appeals Board.

* * * * *

(b) The Appeals Board may refer certain appeals to another PBGC department or to Appeals Board staff to provide a response to the appellant. The response from another PBGC department or Board staff shall be in writing and address the matters raised in the appeal. The response may be in the form of an explanation or corrected benefit determination. In either case, the appellant will have 45 calendar-days from the date of the response to file a written request for review by the Appeals Board. If a written request for review is not filed with the Appeals Board within the 45-calendar-day period the determination shall become effective pursuant to § 4003.22(a).

(1) Appeals that may be referred to another PBGC department or to the Board staff include those that—

(i) Request an explanation of the initial determination being appealed;

(ii) Dispute specific data used in the determination, such as date of hire, date of retirement, date of termination of employment, length of service, compensation, marital status and form of benefit elected; or

(iii) Request an explanation of the limits on benefits payable by PBGC under Part 4022, Subpart B, such as the maximum guaranteeable benefit and phase-in of the PBGC guarantee.

(2) An explanation or corrected benefit determination issued under this subsection is not considered a decision of the Appeals Board. If an appellant aggrieved by PBGC's initial determination is issued an explanation or corrected benefit determination under this section, the appellant has not exhausted his or her administrative remedies until the appellant has filed a timely request with the Appeals Board for review and the Appeals Board has issued a decision granting or denying the relief requested. See § 4003.7 of this part.

■ 10. In § 4003.60:

■ a. The section heading is amended by removing the word ''Executive''.

■ b. The text of the section is amended by removing the word ''Executive'' each place it appears.

Issued in Washington, DC, this 29th day of April, 2008.

Elaine L. Chao,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

Judith R. Starr,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. E8–15196 Filed 7–2–08; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0539]

RIN 1625–AA00

Security Zone; Thea Foss Waterway, Tacoma, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing a temporary security zone in the Thea Foss Waterway, Tacoma, Washington during a reception at the Museum of Glass. This security zone is necessary to ensure the safety of dignitaries while attending the reception. Entry into, transit through, mooring, or anchoring within this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

DATES: This rule is effective from 6 p.m. (PDT) to 11:59 p.m. (PDT) on July 3, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0539 and are available for inspection or copying at USCG Sector Seattle, Waterways Management Division between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning this rule, call Ensign Heidi A. Bevis, Waterways Management Division, U.S. Coast Guard Sector Seattle, at 206–217–6147.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing

a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of the dignitaries that will be at the Museum of Glass on the date and times this rule will be in effect. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event.

Under 5 U.S.C. 553(d)(3), the U.S. Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Making this rule effective less than 30 days after publication is necessary to ensure the safety of the dignitaries that will be at the Museum of Glass on the date and times this rule will be in effect.

Background and Purpose

The U.S. Coast Guard is establishing a temporary security zone in the Thea Foss Waterway, Tacoma, Washington to provide for the safety of visiting dignitaries while attending a reception at the Museum of Glass. The reception is one of many events planned in the Puget Sound during the annual ASTA Pacific Tall Ships Challenge and the Tacoma Tall Ships 2008 Event. The U.S. Coast Guard is establishing this zone to ensure that no unauthorized vessels or persons enter into the security zone. The security zone is needed to protect the dignitaries from any waterborne threats.

Discussion of Rule

This rule will control the movement of all vessels and persons in a security zone that includes all waters within a line connecting the following points 47°14.80 N, 122°26.00 W; 47°14.80 N, 122°25.97 W; 47°14.60 N, 122°25.92 W; and 47°14.6 N, 122°25.95 W. The security zone does not extend on land.

The U.S. Coast Guard through this action intends to promote the security of personnel while attending the reception at the Museum of Glass, which is located on the waterfront of the Thea Foss Waterway, Tacoma, WA. Entry into this zone by all vessels or persons will be prohibited unless authorized by the Captain of the Port. This security zone will be enforced by U.S. Coast Guard personnel. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This rule will be in effect for less than 6 hours and vessel traffic can pass safely around the security zone.

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 U.S. 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 security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for less than 6 hours and vessel traffic can pass safely around the security zone. Before the effective period, we will issue maritime advisories widely available throughout the Puget Sound.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule because it concerns an emergency situation of less than 1 week in duration.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. From 6 p.m. (PDT) to 11:59 p.m. (PDT) on July 3, 2008, a temporary § 165.T13–041 is added to read as follows:

§ 165.T13–041 Security Zone: Thea Foss Waterway, Tacoma, Washington.

(a) *Location.* The following area is a security zone: All waters within a line connecting the following points 47°14.80 N, 122°26.00 W; 47°14.80 N, 122°25.97 W; 47°14.60 N, 122°25.92 W; and 47°14.6 N, 122°25.95 W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel may enter, transit, moor, or anchor within the security zone described in paragraph (a) of this section, except for vessels authorized by the Captain of the Port or his designated representatives.

(c) *Enforcement period.* This rule is effective from 6 p.m. (PDT) to 11:59 p.m. (PDT) on July 3, 2008. If the need for the security zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this section and will announce that fact via Broadcast Notice to Mariners.

Dated: June 20, 2008.

Stephen P. Metruck,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. E8–15207 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0337; FRL–8565–2]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_X) and oxides of sulfur (SO_X) emissions from facilities emitting 4 tons or more per year of NO_X or SO_X in the year 1990 or any subsequent year under the SCAQMD's Regional Clean Air Incentives Market (RECLAIM) program. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on September 2, 2008 without further notice, unless EPA receives adverse comments by August 4, 2008. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2008–0337, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

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

FOR FURTHER INFORMATION CONTACT: Lily Wong, EPA Region IX, (415) 947–4114, *wong.lily@epa.gov*.

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

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the SCAQMD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	2004	Requirements	04/06/07	03/07/08
SCAQMD	2007	Trading Requirements	04/06/07	03/07/08
SCAQMD	2010	Administrative Remedies and Sanctions	04/06/07	03/07/08

On April 17, 2008, this rule submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

Table 2 lists the previous versions of these rules approved into the SIP.

TABLE 2.—CURRENT SIP APPROVED VERSION OF RULES

Rule No.	Rule title	Adopted	Submitted	Approved FR citation
2004	Requirements	05/11/01	05/31/01	09/04/03, 68 FR 52512
2007	Trading Requirements	05/06/05	10/20/05	08/29/06, 71 FR 51120
2010	Administrative Remedies and Sanctions	01/07/05	07/15/05	08/29/06, 71 FR 51120

C. What is the purpose of the submitted rule revisions?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NO_X emissions. The RECLAIM program was initially adopted by SCAQMD in October 1993. The program established for many of the largest NO_X and SO_X facilities in the South Coast Air Basin a regional NO_X and SO_X emissions cap and trade program, with the emissions caps declining over time. The program was designed to provide incentives for sources to reduce emissions and advance pollution control technologies by giving sources added flexibility in meeting emission reduction requirements. A RECLAIM source's emissions may not exceed its holding of RECLAIM Trading Credits (RTCs) in any compliance year. A RECLAIM source may comply with this requirement by installing control equipment, modifying their activities, or purchasing RTCs from other facilities.

The primary purposes of the amendments to the RECLAIM rules were to provide some relief on reporting and to improve clarity and enforceability of the rules. The amendments to Rule 2004 relieve sources from submitting quarterly certification reports when there are zero emissions. The amendments to Rule 2007 clarify the reporting requirements for certain contractual agreements called forward contracts and address enforceability of the program to parties who participate in trading but do not live in California. The amendments to Rule 2010 clarify that if a facility has excess emissions violations and changes operators, the old and new operators are both liable for past violations. The amendments include a mechanism to assign liability. EPA's technical support document (TSD) has more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Regulation XX (Rules 2000 through 2020) must fulfill RACT.

Guidance and policy documents that we use to help evaluate enforceability and RACT requirements consistently include the following:

1. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

4. ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R01–001 (the EIP guidance), January 2001.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and economic incentive programs. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by August 4, 2008, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 2, 2008. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this 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.

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 22, 2008.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(354) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(354) New and amended regulations for the following APCDs were submitted on March 7, 2008, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rule 2004, ''Requirements'' adopted on October 15, 1993 and amended on April 6, 2007.

(*2*) Rule 2007, ''Trading Requirements'' adopted on October 15, 1993 and amended April 6, 2007.

(*3*) Rule 2010, ''Administrative Remedies and Sanctions'' adopted on October 15, 1993 and amended on April 6, 2007.

[FR Doc. E8–14884 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2007–0561; FRL–8555–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Nevada; Wintertime Oxygenated Gasoline Rule; Vehicle Inspection and Maintenance Program; Redesignation of Truckee Meadows to Attainment for the Carbon Monoxide Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving certain submittals by the State of Nevada of revisions to the Nevada state implementation plan that are intended to provide for attainment and maintenance of the carbon monoxide national ambient air quality standard in the Truckee Meadows nonattainment area located within Washoe County, Nevada. These revisions include a local wintertime oxygenated gasoline rule, a ''basic'' vehicle inspection and maintenance program (including a performance standard evaluation), current statutory provisions and State rules governing mobile sources, a maintenance plan and related motor vehicle emissions budgets. EPA is also approving Nevada's request to redesignate the Truckee Meadows carbon monoxide nonattainment area to attainment. EPA is deferring action on the proposal to rescind a provision previously approved in the plan and related to inspection and maintenance of vehicles operated on Federal installations. EPA is taking these actions pursuant to those provisions of the

Clean Air Act that obligate the Agency to take action on submittals of revisions to state implementation plans and requests for redesignation. This action makes certain State and local measures and commitments related to attainment and maintenance of the carbon monoxide standard in Truckee Meadows federally enforceable as part of the Nevada state implementation plan.

DATES: *Effective Date:* This rule is effective on August 4, 2008.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2007–0561 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Eleanor Kaplan, EPA Region IX, (415) 947–4147, *kaplan.eleanor@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA. This supplementary information is organized as follows:

Table of Contents

I. Proposed Action
II. Public Comments
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On January 7, 2008 (73 FR 1175), under section 110(k)(3) of the Clean Air Act, as amended in 1990 (CAA or ''Act''), EPA proposed to approve certain submittals of revisions to the Nevada state implementation plan (SIP) by the Nevada Division of Environmental Protection (NDEP). These revisions are intended to provide for attainment and maintenance of the carbon monoxide (CO) national ambient air quality standards (NAAQS) in the Truckee Meadows nonattainment area located within Washoe County, Nevada. The specific SIP revision submittals that we proposed to approve are listed in the following table:

Plan, plan element or rule	Adoption date(s)	State of Nevada submittal date(s)
Washoe County District Board of Health Regulations Governing Air Quality Management, section 040.095 (''Oxygen content of motor vehicle fuel'').	Originally adopted on Dec. 21, 1988 and amended on Apr. 18, 1990; amended on Sept. 23, 1992; amended on Sept. 22, 2005.	Submitted on Apr. 14, 1991; re-submitted as amended on Nov. 13, 1992; re-submitted as amended on Nov. 4, 2005.
State Implementation Plan for a Basic Program for the Inspection and Maintenance of Motor Vehicles for the Truckee Meadows Planning Area, Nevada (June 1994).	Regulations adopted at various times by the State Environmental Commission and Department of Motor Vehicles but superseded by SIP revision submittal dated May 11, 2007, as listed below.	June 3, 1994.
Basic I/M Performance Standard Evaluation	Sept. 28, 2006	Nov. 2, 2006.
Nevada Mobile Source SIP, Update of the Regulatory Element (May 11, 2007).	Regulations adopted at various times by State Environmental Commission and Department of Motor Vehicles.	May 11, 2007.
Redesignation Request and Maintenance Plan for the Truckee Meadows Carbon Monoxide Non-Attainment Area (September 2005).	Sept. 22, 2005	Nov. 4, 2005.

Specifically, we proposed to approve NDEP's SIP revision submittal dated November 4, 2005 of the wintertime oxygenated gasoline rule as amended on September 22, 2005 by the Washoe County District Board of Health (''District'') and codified as District Regulations Governing Air Quality Management section 040.095 (''District rule 040.095''). In our proposed rule, we found that District rule 040.095 fulfills the requirements of section 211(m) of the Act and applicable EPA regulations.

We also proposed to approve the SIP revision submittal dated June 3, 1994 of the *State Implementation Plan for a Basic Program for the Inspection and Maintenance of Motor Vehicles for the Truckee Meadows Planning Area, Nevada* (June 1994) (''Basic I/M SIP''). In connection with the basic vehicle inspection and maintenance (I/M) program in Truckee Meadows, we proposed to approve two subsequent SIP revision submittals: a ''basic'' I/M performance standard evaluation (''Basic I/M Performance Standard Evaluation'') submitted on November 2, 2006 and the *Nevada Mobile Source SIP, Update of the Regulatory Element* (May 11, 2007) (''Mobile Source SIP Update'') submitted on May 11, 2007. Among other items, NDEP's Mobile Source SIP Update contains current I/M-related statutory provisions, regulations, and updated exhaust gas analyzer specifications.[1] Based on our review of the various elements of the program, we proposed to approve the basic I/M program for Truckee Meadows as meeting the requirements of CAA section 187(a)(4) and our implementing regulations, including the ''basic'' performance standard that applies to ''moderate'' CO nonattainment areas with design values less than 12.7 ppm (such as Truckee Meadows).

In connection with our proposed approval of the State's Basic I/M SIP, as supplemented and amended in submittals dated November 2, 2006 and May 11, 2007, we proposed no action on submitted rule Nevada Administrative Code (NAC) subsection 445B.595(2) (''NAC 445B.595(2)''), which relates to State I/M requirements for motor vehicles operated on Federal

[1] The statutory provisions and rules submitted by NDEP on May 11, 2007 represent a comprehensive update to the regulatory portion of the State's mobile source SIP (excluding the rules establishing fuels specifications, alternative fuels programs for government vehicles, and local rules related to mobile sources), including the regulatory portion of the State's Truckee Meadows I/M SIP, which was last approved in 1984 (49 FR 44208, November 5, 1984), and the regulatory portion of the State's Las Vegas Valley I/M SIP, which was last approved in 2004 (69 FR 56351, September 21, 2004). The current submitted versions of the I/M-related statutory provisions and rules are not significantly different than the corresponding versions of the statutory provisions and rules approved in 2004 for the State's Las Vegas I/M program, and are consistent with the underlying assumptions used to develop the Las Vegas Valley 2005 CO Plan, which was approved by EPA on August 7, 2006 (71 FR 44587).

installations located within I/M areas, because of sovereign immunity concerns. Furthermore, we proposed, under CAA section 110(k)(6), to rescind our previous approval of NAC 445B.595(2) into the Nevada SIP in 2004 because we believed that we had approved it in error, also on the grounds of sovereign immunity. For the reasons given below in response to NDEP's comments on our proposal, we are separating our actions on NAC 445B.595(2) (i.e., both the proposed ''no action'' on the submitted rule (and current codification of) NAC 445B.595(2) and the proposed correction) from the rest of the actions proposed on January 7, 2008 and intend to re-propose action on NAC 445B.595(2) in a future **Federal Register** document.

In our January 7, 2008 proposed rule, we proposed to approve NDEP's SIP revision submittal (dated November 4, 2005) of the *Redesignation Request and Maintenance Plan for the Truckee Meadows Carbon Monoxide Non-Attainment Area* (September 2005) (''Truckee Meadows CO Maintenance Plan''), adopted by the District on September 22, 2005. In connection with our proposed approval of the Truckee Meadows CO Maintenance Plan, we proposed to approve certain commitments by the District, contingency provisions, and CO motor vehicle emissions budgets for years 2010 and 2016 for the purposes of transportation conformity. In so doing, we found that the Truckee Meadows CO Maintenance Plan meets the requirements for maintenance plans under section 175A of the Act.

Lastly, based on our evaluation of the various SIP requirements and submittals discussed above, we concluded that, upon our final approval of the SIP submittals evaluated in the proposed rule, the State will have met all section 110 and part D requirements that apply to the Truckee Meadows moderate CO nonattainment area and thereby satisfied the criteria for redesignation under CAA section 107(d)(3)(E) and proposed to approve the State's request (dated November 4, 2005) for redesignation of Truckee Meadows to attainment accordingly.[2]

Please see the proposed rule for additional information on the various SIP revision submittals and the redesignation request and on our corresponding evaluation and rationale for proposed action.

II. Public Comments

EPA's January 7, 2008 proposed rule provided a 30-day public comment period. Comments were received from the Air Quality Management Division (AQMD) of the Washoe County District Health Department, the Nevada Division of Environmental Protection (NDEP), and the Western States Petroleum Association (WSPA). Responses to the comments from each entity are provided below.

Comment #1: By letter dated January 23, 2008, AQMD notes that, since adoption of the maintenance plan, EPA has reorganized the rules in 40 CFR part 58 and relocated the requirements for annual assessments of monitoring networks from 40 CFR 58.20(d) to 58.10, and that the maintenance plan refers in two places to the former rather than the latter.

Response #1: AQMD is correct. EPA has relocated the requirements for annual assessments of monitoring networks from 40 CFR 58.20 to 58.10. We encourage AQMD to include the updated regulatory reference in any subsequent maintenance plan for the area.

Comment #2: By letter dated January 30, 2008, NDEP requests a 30-day extension of the comment period to assess the implications of EPA's proposed rescission, under CAA section 110(k)(6) error correction authority, of a previously approved provision related to inspection and maintenance (I/M) of vehicles operated on Federal installations (i.e., NAC 445B.595(2)). By letter dated January 31, 2008, NDEP withdraws its request for an extension of the public comment period with respect to all aspects of EPA's January 7, 2008 proposal except for the proposed rescission action (related to I/M for vehicles operated on Federal installations) and requests instead that EPA act separately on the rescission aspect of the proposal. By e-mail dated February 1, 2008 and then by letter dated February 4, 2008, NDEP restates its amended request from January 31, 2008 but specifically conditions withdrawal of the extension request upon EPA's removal of the proposed CAA section 110(k)(6) action to rescind NAC 445B.595(2) from the rest of the January 7, 2008 proposed action.

Response #2: NDEP's initial letter dated January 30, 2008 led to EPA's reconsideration of the basis for EPA's proposed rescission of NAC 445B.595(2) and related ''no action'' proposal for the 2007 codification of the subject rule. On the basis of that reconsideration, EPA intends to re-propose action on NAC 445B.595(2) in a separate **Federal Register** document but to otherwise finalize the January 7, 2008 action as proposed.

Comment #3: By letter submitted on February 6, 2008, WSPA supports the redesignation of the Truckee Meadows nonattainment area as an attainment area for CO, but objects to the inclusion of the Washoe County wintertime oxygenated gasoline requirement in the Truckee Meadows CO maintenance plan. WSPA cites the results of a 2005 study commissioned by WSPA (and submitted with the comment letter), and more recent study results, as support for the proposition that elimination of the oxygenated fuel requirements in Washoe County would have little impact on ambient CO concentrations in 2006 and beyond and would not threaten compliance with the CO NAAQS particularly given the low ambient CO concentrations measured in Washoe County in recent years and declining trend in CO emissions. WSPA concludes that the oxygenated gasoline program has outlived its usefulness. In WSPA's view, continuation of the Washoe County wintertime oxygenated gasoline requirement places an unnecessary logistical burden on gasoline suppliers, which could lead to adverse supply impacts and possible market volatility. WSPA draws further support from the experiences in other areas in the country that have rescinded their oxygenated gasoline programs without triggering any CO NAAQS violations. Lastly, WSPA requests that EPA remove the Washoe County wintertime oxygenated gasoline requirement as a control measure in the Truckee Meadows CO maintenance plan for the years 2006 through 2016 but registers no objection to the requirement being included in the maintenance plan as a contingency measure.

Response #3: The Clean Air Act assigns to the states initial and primary responsibility for formulating a plan to achieve the NAAQS. It is up to the state to prepare state implementation plans

[2] The Truckee Meadows CO Maintenance Plan relies upon three principal State or local control measures: The District's wintertime oxygenated gasoline rule, the State's vehicle inspection and maintenance (I/M) program, and the District's residential wood combustion rule. We proposed to approve the first and second of the three measures in our January 7, 2008 proposed rule. We approved the third measure (the residential wood combustion rule) in a separate document in 2007. See 72 FR 33397 (June 18, 2007). In our proposed rule, we indicated that we would not finalize the redesignation until we take final action approving the oxygenated gasoline rule and the I/M program. In today's action, we are finalizing approvals of both the oxygenated gasoline rule and the I/M program, thereby fulfilling a prerequisite to the final redesignation action which we are also taking today. Also, for reasons set forth in the proposed rule, we find that we need not fully approve either the County's nonattainment new source review rules or the County's transportation conformity rules as a pre-condition to redesignation of Truckee Meadows to attainment for the CO NAAQS.

which contain specific pollution control measures. EPA's responsibilities under the CAA are qualitatively different from those of the state agency. The EPA is charged with reviewing and approving or disapproving the enforceable implementation plans prepared by states and other political subdivisions identified in the statute. It is not EPA's role to disapprove the State choice of control strategies if that strategy will result in attainment or continued maintenance of the NAAQS, and meets all other applicable statutory requirements. See *Union Electric Co.* v. *EPA,* 427 U.S. 246 (1976); *Train* v. *NRDC,* 421 U.S. 60 (1975). EPA's role in reviewing SIP submissions is to approve state choices, provided that they meet the criteria of the Clean Air Act. Federal inquiry into the reasonableness of state action is not allowed under the Act (see *Union Electric Co.* v. *EPA,* 427 U.S. 246, 255–266 (1976); CAA section 110(a)(2)). Under section 116 of the CAA, with certain exceptions not relevant here, a State retains the right to adopt and enforce any requirement respecting control or abatement of air pollution, including more stringent emissions standards and limitations.

For the reasons set forth in the proposed rule (see 73 FR 1175, at 1178–1179), we find that the District's wintertime gasoline oxygen content requirements (i.e., District Rule 040.095) meet applicable CAA criteria, including public notice and hearing prior to adoption and submittal, as well as the substantive criteria of section 211(m) and meet applicable EPA regulations. WSPA does not object to our finding that the District's requirements meet applicable CAA criteria and applicable EPA regulations, but rather WSPA contends that the rule is no longer needed for maintenance of the CO NAAQS in Truckee Meadows. However, for the reasons set forth above, we do not have the authority to disapprove the District's choice (endorsed by the applicable State agency, NDEP) to include the wintertime oxygenated gasoline requirement as part of their CO maintenance strategy on such grounds. If NDEP and the District choose to revise the SIP to suspend implementation of the wintertime oxygenated gasoline requirement and to adopt the requirement as a contingency measure, they may do so with a demonstration that the area would continue to maintain the CO NAAQS without the benefit of the related emissions reductions, subject to compliance with CAA procedural requirements and subject to EPA approval.

III. EPA Action

As authorized under section 110(k) of the Act, and for the reasons summarized in section I of this document and, in greater detail, in our proposed rule, EPA is approving certain submittals by NDEP of revisions to the Nevada SIP that are required to provide for attainment of the CO NAAQS in the Truckee Meadows ''moderate'' CO nonattainment area and is approving a maintenance plan under section 175A of the Act. EPA is also approving, under section 107(d)(3) of the Act, NDEP's request to redesignate Truckee Meadows to attainment for the CO NAAQS. Our specific approvals are as follows:

First, we are approving the local oxygenated gasoline regulation, District Rule 040.095, as amended on September 22, 2005) as fulfilling the requirements of section 211(m) of the CAA.

Second, we are approving the State of Nevada's SIP revisions containing the ''basic'' vehicle I/M program for Truckee Meadows because we find that the program meets all applicable requirements under CAA section 187(a)(4) and EPA regulations. Specifically, we are approving three I/M-related SIP revisions submitted by NDEP:

(i) *State Implementation Plan for a Basic Program for the Inspection and Maintenance of Motor Vehicles for the Truckee Meadows Planning Area, Nevada* (June 1994), submitted on June 3, 1994, excluding the following outdated or superseded elements included in the June 3, 1994 SIP revision: The statutory provisions and rules, the exhaust gas analyzer specifications, MOBILE5.0a emissions modeling, and a contingency measure adopted by the Washoe County District Board of Health;

(ii) Basic I/M Performance Standard Evaluation for motor vehicles in the Truckee Meadows planning area, submitted on November 2, 2006; and

(iii) Current Nevada mobile source statutory and regulatory provisions and rules, including those related to I/M, and updated exhaust gas analyzer (NV2000) specifications, submitted by NDEP on May 11, 2007.[3] The current Nevada mobile source statutory provisions and regulations, including those related to I/M, that we are approving are as follows:

- Nevada Revised Statutes (2005), chapter 365: section 365.060; chapter 366, section 366.060; chapter 445B, sections 445B.210, 445B.700–845 (excluding NRS 445B.776, 445B.777, and 445B.778); chapter 481, sections 481.019–481.087; chapter 482, sections 482.029, 482.155–482.290, 482.385, 482.461, and 482.565; and chapter 484, sections 484.101, 484.644 and 484.6441;
- Nevada Administrative Code, chapter 445B (January 2007 revision by the Legislative Counsel Bureau), sections 445B.400 to 445B.735, excluding subsection (2) of section 445B.595.

Third, we are approving the *Redesignation Request and Maintenance Plan for the Truckee Meadows Carbon Monoxide Non-Attainment Area* (September 2005) (''Truckee Meadows CO Maintenance Plan''), adopted by the Washoe County District Board of Health on September 22, 2005, and submitted by NDEP to EPA on November 4, 2005, as meeting the requirements of CAA section 175A.

In connection with our approval of the Truckee Meadows CO Maintenance Plan, we find the following plan elements to be acceptable:

- Baseline (2002) emissions inventory and future year (2010 and 2016) inventory projections;
- Commitment to continue operating an appropriate ambient CO monitoring network;
- Commitment to verify continued attainment through ambient monitoring and the preparation and submittal of periodic inventory updates and surveys of residential woodburning;
- Contingency provisions that establish a two-tier approach with specific triggering events and regulatory responses: The first involving a lowering of the stage 1 (alert) episode level (tier 1) by the next CO season and the second involving a recommendation and timetable for action by the Washoe County District Board of Health or the State Environmental Commission to tighten certain requirements, potentially including a higher wintertime gasoline oxygen content or higher waiver amounts in the State's vehicle I/M program, to promptly correct any violation of the CO NAAQS after redesignation;
- Commitment to prepare and submit a subsequent CO maintenance plan for

[3] Our approval of the May 11, 2007 SIP revision submittal updates and supersedes the statutory and regulatory portion of Nevada's mobile source SIP (excluding the rules establishing fuels specifications, alternative fuels programs for government vehicles, and any local rules related to mobile sources) and updates the exhaust gas analyzer specifications as approved in 2004 for the State's I/M program in Las Vegas and Boulder City. Superseded provisions include the State's Truckee Meadows I/M SIP, which was last approved in 1984 (49 FR 44208, November 5, 1984), and the regulatory portion of the State's Las Vegas Valley I/M SIP, which was last approved in 2004 (69 FR 56351, September 21, 2004), with the exception of NAC 445B.595(2) which is being retained in the Nevada SIP at this time.

the Truckee Meadows area 8 years after redesignation; and

• CO motor vehicle emissions budgets (in terms of pounds per typical CO season day) of 330,678 pounds per typical CO season day in year 2010 and 321,319 pounds per typical CO season day in year 2016.

Fourth, under section 107(d)(3), we are approving NDEP's request (dated November 4, 2005) to redesignate the Truckee Meadows CO nonattainment area to attainment. In so doing, we find that:

• The Truckee Meadows nonattainment area has attained the CO NAAQS;

• EPA has fully approved the applicable SIP for this area under section 110(k) of the CAA;

• The improvement in ambient CO conditions in Truckee Meadows is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

• The State has met all requirements applicable to Truckee Meadows under section 110 and part D (of title I) of the CAA;[4] and

• As described above, we are approving the Truckee Meadows CO Maintenance Plan as meeting the requirements of CAA section 175A.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affects small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves state law implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 2, 2008.

Jane Diamond,

Acting Regional Administrator, Region IX.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraphs (c)(68), (c)(69), (c)(70) and (c)(71) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(68) The following plan revision was submitted on June 3, 1994 by the Governor's designee.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(*1*) State Implementation Plan for a Basic Program for the Inspection and Maintenance of Motor Vehicles for the

[4] With respect to this criterion, we find that we need not fully approve either the District's nonattainment new source review rules or conformity rules as a pre-condition to redesignation of Truckee Meadows to attainment for the CO NAAQS.

Truckee Meadows Planning Area, Nevada (June 1994), including the cover page through page 9.

(ii) Additional material.

(A) Nevada Division of Environmental Protection.

(*1*) State Implementation Plan for a Basic Program for the Inspection and Maintenance of Motor Vehicles for the Truckee Meadows Planning Area, Nevada (June 1994), appendix 1, appendix 2 (only the certificate of compliance and Nevada attorney general's opinion), and appendices 3, 6, 8, and 10.

(69) The following plan revision was submitted on November 4, 2005 by the Governor's designee.

(i) Incorporation by reference.

(A) Washoe County District Health Department.

(*1*) Rule 040.095, ''Oxygen content of motor vehicle fuel,'' revised on September 22, 2005.

(*i*) Washoe County District Board of Health Meeting, September 22, 2005, Public Hearing—Amendments—Washoe County District Board of Health Regulations Governing Air Quality Management; to Wit: Rule 040.095 (Oxygen Content of Motor Vehicle Fuel).

(*2*) Redesignation Request and Maintenance Plan for the Truckee Meadows Carbon Monoxide Non-Attainment Area (September 2005), excluding appendices B, C, and D.

(70) The following plan revision was submitted on November 2, 2006 by the Governor's designee.

(i) Incorporation by reference.

(A) Washoe County District Health Department.

(*1*) Basic I/M Performance Standard, excluding appendices A through D.

(*i*) Washoe County District Board of Health Meeting, September 28, 2006, Public Hearing—State Implementation Plan (SIP)—''Basic Program—Inspection and Maintenance (I/M) of Motor Vehicles—Truckee Meadows Planning Area, Nevada;'' to Wit: Basic Inspection and Maintenance (I/M) Performance Standard.

(ii) Additional material.

(A) Washoe County District Health Department.

(*1*) Basic I/M Performance Standard, appendices A through D.

(71) The following plan revision was submitted on May 11, 2007 by the Governor's designee.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(*1*) New or amended statutes related to mobile sources, including Nevada's vehicle inspection and maintenance program in Las Vegas Valley/Boulder City and Truckee Meadows: Nevada Revised Statutes (2005), chapter 365, section 365.060, ''Motor vehicle fuel defined;'' chapter 366, section 366.060, ''Special fuel defined;'' chapter 445B, sections 445B.210, ''Powers of Commission,'' 445B.700, ''Definitions,'' 445B.705, ''Approved inspector defined,'' 445B.710, ''Authorized inspection station defined,'' 445B.715, ''Authorized maintenance station defined,'' 445B.720, ''Authorized station defined,'' 445B.725, ''Commission defined,'' 445B.730, ''Evidence of compliance defined,'' 445B.735, ''Fleet station defined,'' 445B.737, ''Heavy-duty motor vehicle defined,'' 445B.740, ''Light-duty motor vehicle defined,'' 445B.745, ''Motor vehicle defined,'' 445B.747, ''Motor vehicle fuel defined,'' 445B.750, ''Passenger car defined,'' 445B.755, ''Pollution control device defined,'' 445B.757, ''Special fuel defined,'' 445B.758, ''Used motor vehicle defined,'' 445B.759, ''Inapplicability to military tactical vehicles,'' 445B.760, ''Authority of Commission to prescribe standards for emissions from mobile internal combustion engines; 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timing and contents of notice,'' 482.285, ''Certificates, decals and number plates: Illegibility, loss, mutilation or theft; obtaining of duplicates or substitutes; fees and taxes,'' 482.290, ''Assignment and recording of new number for identification of vehicle if old number destroyed or obliterated; fee; penalty for willful defacement, alteration, substitution or removal of number with intent to defraud,'' 482.385, ''Registration of vehicle of nonresident owner not required; exceptions; registration of vehicle by person upon becoming resident of this State; penalty; taxes and fees; surrender or nonresident license plates and registration certificate; citation for violation,'' 482.461 ''Failure of mandatory test of emissions from engines; notification; cost of inspection,'' 482.565, ''Administrative fines for violations other than deceptive trade practices; injunction or other appropriate remedy; enforcement proceedings;'' and chapter 484, sections 484.101, ''Passenger car defined,'' 484.644, ''Device for control of pollution: Use required; disconnection or alteration prohibited; exceptions,'' and 484.6441, ''Device for

control of pollution: Penalty; proof of conformity may be required.''

(*2*) New or amended rules related to mobile sources, including Nevada's vehicle inspection and maintenance program in Las Vegas Valley/Boulder City and Truckee Meadows: Nevada Administrative Code, chapter 445B (January 2007 revision by the Legislative Counsel Bureau), sections 445B.400, ''Scope,'' 445B.401, ''Definitions,'' 445B.403, ''Approved inspector defined,'' 445B.4045, ''Authorized inspection station defined,'' 445B.405, ''Authorized station defined,'' 445B.408, ''Carbon monoxide defined,'' 445B.409, ''Certificate of compliance defined,'' 445B.4092, ''Certified on-board diagnostic system defined,'' 445B.4096, ''Class 1 approved inspector defined,'' 445B.097, ''Class 1 fleet station defined,'' 445B.098, ''Class 2 approved inspector defined,'' 445B.4099, ''Class 2 fleet station defined,'' 445B.410, ''CO_2 defined,'' 445B.411, ''Commission defined,'' 445B.413, ''Department defined,'' 445B.415, ''Director defined,'' 445B.416, ''Emission defined,'' 445B.418, ''EPA defined,'' 445B.419, ''Established place of business defined,'' 445B.420, ''Evidence of compliance defined,'' 445B.421, ''Exhaust emissions defined,'' 445B.422, ''Exhaust gas analyzer defined,'' 445B.424, ''Fleet station defined,'' 445B.4247, ''Gross vehicle weight rating defined,'' 445B.426, ''Heavy-duty motor vehicle defined,'' 445B.427, ''Hydrocarbon defined,'' 445B.428, ''Hz defined,'' 445B.432, ''Light-duty motor vehicle defined,'' 445B.433, ''Mini motor home defined,'' 445B.434, ''Motor home defined,'' 445B.435, ''Motor vehicle defined,'' 445B.440, ''New motor vehicle defined,'' 445B.442, ''Opacity defined,'' 445B.443, ''Person defined,'' 445B.444, ''ppm defined,'' 445B.449, ''Smoke defined,'' 445B.450, ''Special mobile equipment defined,'' 445B.451, ''Standard defined,'' 445B.4515, ''State electronic data transmission system defined,'' 445B.452, ''Tampering defined,'' 445B.4525, ''Test station defined,'' 445B.453, ''Truck defined,'' 445B.454, ''Used motor vehicle defined,'' 445B.455, ''Van conversion defined,'' 445B.4553, ''Vehicle inspection report defined,'' 445B.4556, ''Vehicle inspection report number defined,'' 445B.456, ''Severability,'' 445B.460, ''Test station: License required to operate; expiration of license; ratings; performance of certain services; prohibited acts; location,'' 445B.461, ''Compliance by Federal Government, state agencies and political subdivisions,'' 445B.462, ''Test station: Application for license to operate; inspection of premises; issuance of license,'' 445B.463, ''Test station: Grounds for denial, revocation or suspension of license; reapplication; permanent revocation of license,'' 445B.464, ''Test station: Hearing concerning denial, suspension or revocation of license,'' 445B.465, ''Authorized station or authorized inspection station: Requirements for bond or deposit,'' 445B.466, ''Authorized station or authorized inspection station: Liability under bond or deposit; suspension and reinstatement of licenses,'' 445B.467, ''Authorized station or authorized inspection station: Disbursement, release or refund of bond or deposit,'' 445B.468, ''Authorized stations and authorized inspection stations: Scope of coverage of bond or deposit,'' 445B.469, ''Authorized station or authorized inspection station: Posting of signs and placards,'' 445B.470, ''Test station: Display of licenses; availability of reference information,'' 445B.471, ''Test station: Advertising; provision by Department of certain informational material for public,'' 445B.472, ''Test station: Records of inspections and repairs; inspection of place of business; audit of exhaust gas analyzers,'' 445B.473, ''Test station: Notice of wrongfully distributed or received vehicle inspection reports; inventory of vehicle inspection reports,'' 445B.474, ''Test station: Failure to employ approved inspector,'' 445B.475, ''Authorized station or class 2 fleet station: Requirements for employees,'' 445B.476, ''Test station: Willful failure to comply with directive; suspension of license; reapplication after revocation of license,'' 445B.478, ''Fleet station: Licensing; powers and duties,'' 445B.480, ''Test station: Requirements concerning business hours,'' 445B.485, ''Prerequisites to licensing,'' 445B.486, ''Examination of applicants for licensing,'' 445B.487, ''Denial of license,'' 445B.489, ''Grounds for denial, suspension or revocation of license,'' 445B.490, ''Hearing on suspension or revocation of license,'' 445B.491, ''Temporary suspension or refusal to renew license,'' 445B.492, ''Duration of suspension; surrender of license,'' 445B.493, ''Limitation on reapplication after revocation or denial or license; surrender of revoked license; permanent revocation of license,'' 445B.495, ''Contents of license,'' 445B.496, ''Expiration of license,'' 445B.497, ''Requirements for renewal of license,'' 445B.498, ''Performance of emission inspection without license prohibited; expiration of license; license ratings,'' 445B.4983, ''Issuance of access code to approved inspector; use of access code and identification number,'' 445B.4985, ''Violations,'' 445B.499, ''Fees,'' 445B.501, ''Report of change in place of employment or termination of employment,'' 445B.502, ''Submission of certificate of employment to report change,'' 445B.5049, ''Connection to state electronic data transmission system,'' 445B.505, ''Availability of list of approved analyzers and their specifications,'' 445B.5052, ''Approved analyzer: Use and equipment; deactivation by Department,'' 445B.5055, ''Revocation of approval of analyzer,'' 445B.5065, ''Manufacturer of approved analyzer: Required warranty,'' 445B.5075, ''Manufacturer of approved analyzer: Required services; administrative fine for violations,'' 445B.575, ''Device to control pollution: General requirement; alteration or modification,'' 445B.576, ''Vehicles powered by gasoline or diesel fuel: Restrictions on visible emissions and on idling of diesel engines,'' 445B.577, ''Devices used on stationary rails: Restrictions on visible emissions,'' 445B.578, ''Exceptions to restrictions on visible emissions,'' 445B.579, ''Inspection of vehicle: Devices for emission control required,'' 445B.580, ''Inspection of vehicle: Procedure for certain vehicles with model year of 1995 or older and heavy-duty vehicles with model year of 1996 or newer,'' 445B.5805, ''Inspection of vehicle: Procedure for light-duty vehicles with model year of 1996 or newer,'' 445B.581, ''Inspection of vehicle: Place and equipment for performance,'' 445B.5815, ''Inspection of vehicle: Certified on-board diagnostic systems,'' 445B.582, ''Repair of vehicle; reinspection or testing,'' 445B.583, ''Evidence of compliance: Purpose; records,'' 445B.584, ''Evidence of compliance: Purchase of vehicle inspection report numbers,'' 445B.585, ''Evidence of compliance: Issuance by approved inspector,'' 445B.586, ''Evidence of compliance: Return of fee,'' 445B.587, ''Test of light-duty motor vehicles powered by diesel engines: Equipment for measurement of smoke opacity,'' 445B.588, ''Testing of light-duty motor vehicles powered by diesel engines: List of approved equipment,'' 445B.589, ''Testing of light-duty motor vehicles powered by diesel engines: Procedure; certificate of compliance; effect of failure; lack of proper fuel cap,'' 445B.5895, ''Dissemination of list of authorized stations,'' 445B.590, ''Waiver of standards for emissions,'' 445B.591, ''Form for registration of vehicle in area where inspection of vehicle not

required,'' 445B.5915, ''Requirements for registration of vehicle temporarily being used and maintained in another state,'' 445B.592, ''Applicability of certain standards for emissions and other requirements,'' 445B.593, ''Evidence of compliance required for certain vehicles based in Clark County,'' 445B.594, ''Evidence of compliance required for certain vehicles based in Washoe County,'' 445B.595 (excluding subsection(2)), ''Inspections of vehicles owned by State or political subdivisions or operated on federal installations,'' 445B.596, ''Standards for emissions,'' 445B.598, ''Imposition and statement of fee for inspection and testing; listing of stations and fees,'' 445B.599, ''Prescription and notice of maximum fees for inspections and testing,'' 445B.600, ''Procedure for setting new fee,'' 445B.601, ''Concealment of emissions prohibited,'' 445B.6115, ''Exemption of vehicle from certain provisions,'' 445B.6125, ''Certification of vehicle for exemption,'' 445B.7015, ''Annual and additional inspections,'' 445B.7025, ''Alteration of emission control system of vehicle used to conduct inspection,'' 445B.7035, ''Preliminary written notice of violation; reinspection of vehicle,'' 445B.7045, ''Administrative fines and other penalties for certain violations,'' 445B.727, ''Administrative fines and other penalties,'' and 445B.735, ''Program for licensure to install, repair and adjust devices for control of emissions.''

(ii) Additional material.

(A) Nevada Division of Environmental Protection.

(*1*) Correspondence dated March 6, 2007 from the Nevada Department of Motor Vehicles to the Nevada Division of Environmental Protection describing an upgrade to the NV2000 emission analyzer to make emissions testing possible on motor vehicles containing a certified on-board diagnostic system which uses controller area network communication.

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

Subpart C—[Amended]

■ 4. In § 81.329, the table entitled ''Nevada—Carbon Monoxide'' is amended by revising the entry for the Reno area to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	* *		*	*
Reno Area: Washoe County (part) Truckee Meadows Hydrographic Area 87.	August 4, 2008	Attainment.		
* * *	* *		*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. E8–15015 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

Regulatory Classification. This final rule is not a significant regulatory action

under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

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

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Jackson County, Alabama, and Incorporated Areas Docket No.: FEMA–B–7744			
Bengis Creek Tributary	1,180 feet upstream from County Route 85	+614	City of Stevenson.
	1,195 feet upstream from County Route 85	+614	
Crow Creek	240 feet upstream from John T Reid Parkway	+607	City of Stevenson.
	790 feet upstream from County Route 53	+610	
Dry Creek	2,300 feet upstream from Snodgrass Road	+608	Unincorporated Areas of Jackson County, City of Scottsboro.
	25 feet downstream from Southern Railway	+622	
Guntersville Lake	8,810 feet upstream from Goosepond Drive	+598	
	4,900 feet downstream from Goosepond Drive	+598	
Little Paint Creek	80 feet downstream from County Route 108	+589	Unincorporated Areas of Jackson County, City of Bridgeport.
	50 feet upstream from County Route 108	+591	
Tennessee River	1,300 feet downstream from Railroad	+612	
	6,020 feet downstream from Railroad	+612	
Town Creek	4,310 feet upstream from County Route 33	+605	Unincorporated Areas of Jackson County.
	4,320 feet upstream from County Route 33	+605	

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

ADDRESSES

City of Bridgeport

Maps are available for inspection at 116 Jim Thomas Avenue, Bridgeport, AL 35740.

City of Scottsboro

Maps are available for inspection at 916 S. Broad Street, Scottsboro, AL 35768.

City of Stevenson

Maps are available for inspection at 104 Kentucky Avenue, Stevenson, AL 35772.

Unincorporated Areas of Jackson County

Maps are available for inspection at 102 E. Laurel Street, Suite 47, Scottsboro, AL 35768.

Camden County, Georgia, and Incorporated Areas Docket No.: FEMA–B–7755			
St. Marys River	At the Charlton/Nassau/Camden County Boundary	+8	Unincorporated Areas of Camden County.
	Approximately 460 feet downstream of the Charlton/Nassau/Camden County Boundary.	+8	

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

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
ADDRESSES			
Unincorporated Areas of Camden County			
Maps are available for inspection at Camden County Planning and Building Department, 107 Gross Road, Suite 3, Kingsland, GA 31548.			
Cobb County, Georgia, and Incorporated Areas Docket No.: FEMA–B–7753			
Allatoona Branch	Approximately 700 feet upstream of confluence of Allatoona Creek.	+985	Unincorporated Areas of Cobb County.
	Approximately 75 feet upstream of Holland Rd	+1019	
Allatoona Creek	Approximately 625 feet upstream of County Line Rd	+862	Unincorporated Areas of Cobb County.
	Approximately 1,625 feet upstream of Holland Rd	+1070	
Bishop Creek	Just upstream of confluence with Sope Creek	+911	Unincorporated Areas of Cobb County.
	Just upstream of Seven Springs Circle	+979	
Blackjack Creek	Just upstream of confluence with Sope Creek	+999	Unincorporated Areas of Cobb County, City of Marietta.
	Just upstream of Lightfoot Circle	+1065	
Butler Creek	Approximately 1,375 feet upstream of Nance Rd	+862	Unincorporated Areas of Cobb County, City of Acworth, City of Kennesaw.
	Approximately 600 feet downstream of Sumit Wood Drive	+1024	
Campgound Creek	Just upstream of confluence with Sope Creek	+931	Unincorporated Areas of Cobb County.
	Approximately 800 feet upstream of Roswell Road	+1057	
Concord Creek	Approximately 50 feet upstream of Covered Bridge Road	+897	Unincorporated Areas of Cobb County.
	Approximately 650 feet downstream of Durrell Street	+1014	
Cooper Lake Creek	Approximately 550 feet downstream of East West Connector	+825	Unincorporated Areas of Cobb County, City of Smyrna.
	Approximately 100 feet upstream of Gann Road	+892	
Due West Creek	Approximately 300 feet downstream of Hadaway Road	+896	Unincorporated Areas of Cobb County.
	Approximately 1,100 feet downstream of Butterfield Road	+988	
Eastside Creek	Just upstream of Confluence with Sope Creek	+920	Unincorporated Areas of Cobb County.
	Just downstream of Greenview Drive	+965	
Elizabeth Branch	Just upstream of the confluence with Sope Creek	+1000	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 1,750 feet upstream of Interstate 75	+1082	
Favor Creek	Approximately 1,025 feet upstream of confluence of Nickajack Creek.	+917	Unincorporated Areas of Cobb County.
	Approximately 1,225 feet downstream of Favor Road	+987	
Hope Creek	Just upstream of confluence with Rottenwood Creek	+940	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 1,100 feet upstream of Interstate 75	+1004	
Laurel Creek	Approximately 375 feet upstream of Norfolk Southern Corporation railroad.	+807	Unincorporated Areas of Cobb County, City of Smyrna.
	Approximately 150 feet downstream of Dunn Street	+986	
Liberty Hill Branch	Approximately 400 feet upstream of Monarch Valley Walk	+770	Unincorporated Areas of Cobb County.
	Approximately 950 feet upstream of Blackhawk Trail	+914	
Little Allatoona Creek	Approximately 1,875 feet upstream of Old Stilesboro Road	+896	Unincorporated Areas of Cobb County.
	Approximately 925 feet upstream of Fernstone Road	+932	
Little Noonday Creek	Approximately 1,925 feet upstream of confluence of Noonday Creek.	+906	Unincorporated Areas of Cobb County.
	Approximately 1,325 feet upstream of Almon Drive	+1007	
Lost Mountain Creek	At Confluence with Wildhorse Creek	+907	City of Powder Springs.
	Approximately 1,850 feet upstream of the confluence with Wildhorse Creek.	+907	
Luther Ward Creek	Approximately 1,525 feet upstream of confluence of Mud Creek.	+920	Unincorporated Areas of Cobb County.
	Approximately 1,700 feet upstream of Luther Ward Road	+963	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Milam Branch	Approximately 700 feet upstream of confluence of Queen Creek.	+914	Unincorporated Areas of Cobb County.
	Approximately 50 feet downstream of Lone Oak Drive	+1010	
Mill Creek No. 1	Approximately 250 feet upstream of the confluence of Powder Springs Creek.	+942	Unincorporated Areas of Cobb County.
	Just downstream of Poplar Springs Road	+1001	
Mill Creek No. 2	Approximately 2,000 feet upstream of confluence of Nickajack Creek.	+908	Unincorporated Areas of Cobb County.
	Approximately 100 feet upstream of Hicks Road	+965	
Morgan Lake Tributary	Just upstream of Rio Montana Drive	+947	Unincorporated Areas of Cobb County.
	Approximately 300 feet downstream of Morgan Lake Dam	+986	
Mud Creek	Approximately 1,600 feet upstream of confluence of Nose Creek.	+912	Unincorporated Areas of Cobb County.
	Approximately 250 feet downstream of Gordon Combs Road	+1024	
Nickajack Creek	Approximately 2,550 feet downstream of Veterans Memorial Highway.	+767	Unincorporated Areas of Cobb County, City of Smyrna.
	Approximately 200 feet upstream of Cobb Drive	+1047	
Noonday Creek	Approximately 175 feet upstream of Shallowford Road	+904	Unincorporated Areas of Cobb County, City of Kennesaw, City of Marietta.
	Approximately 325 feet upstream of New Salem Road	+1025	
Noonday Tributary No. 3	Approximately 1,125 feet upstream of confluence of Noonday Creek.	+928	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 350 feet downstream Dickson Road	+1051	
Noonday Tributary No. 7	Approximately 425 feet upstream of confluence of Noonday Creek.	+953	Unincorporated Areas of Cobb County.
	Approximately 1,500 feet downstream of Club Drive	+995	
Noses Creek	Approximately 300 feet upstream of Clay Road	+892	Unincorporated Areas of Cobb County, City of Austell, City of Marietta, City of Powder Springs.
	Approximately 225 feet downstream of Tower Road	+1082	
Olley Creek	Approximately 2,525 feet upstream of confluence of Sweetwater Creek.	+892	Unincorporated Areas of Cobb County, City of Austell, City of Marietta.
	Approximately 50 feet downstream of Hill Street	+1069	
Olley Creek Tributary	Approximately 350 feet downstream of Booth Road	+1001	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 600 feet upstream of Brownstone Road	+1026	
Piney Grove Creek	Just upstream of the Confluence with Sewell Mill Creek	+951	Unincorporated Areas of Cobb County.
	Just downsteam of Davis Road	+1067	
Pitner Creek	Approximately 800 feet upstream of confluence of Little Allatoona Creek.	+890	Unincorporated Areas of Cobb County.
	Approximately 425 feet upstream of Fords Road	+997	
Poorhouse Creek	Just upstream of the confluence with Rottenwood Creek	+928	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 4,800 feet upstream of Cobb Parkway	+954	
Poplar Creek	Just upstream of confluence with Rottenwood Creek	+880	Unincorporated Areas of Cobb County, City of Smyrna.
	Just upstream of PineCrest Circle	+1011	
Powder Springs Creek	Approximately 2,100 feet upstream of C H James Parkway	+914	Unincorporated Areas of Cobb County.
	Approximately 800 feet upstream of Macland Road	+941	
Powers Creek	Just upstream of confluence with Rottenwood Creek	+933	Unincorporated Areas of Cobb County.
	Approximately 200 feet upstream of Powers Ferry Road	+951	
Proctor Creek	Approximately 1,950 feet upstream of Old Highway 41	+865	Unincorporated Areas of Cobb County, City of Acworth, City of Kennesaw.
	Just upstream of Jiles Road	+948	
Queen Creek	Approximately 175 feet downstream of Queens River Drive	+767	Unincorporated Areas of Cobb County.
	Approximately 225 feet upstream of Mableton Drive	+997	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Robertson Creek	Just upstream of the Confluence with Sewell Mill Creek	+923	Unincorporated Areas of Cobb County.
	Approximately 600 feet upstream of Benson Drive	+1019	
Rottenwood Creek	Approximately 500 feet upstream of the confluence with the Chattahoochee River.	+789	Unincorporated Areas of Cobb County, City of Marietta.
	Just upstream of Fairground Street	+1052	
Rubes Creek	Approximately 2,800 feet upstream of confluence of Trickum Creek.	+896	Unincorporated Areas of Cobb County.
	Approximately 130 feet upstream of Saxony Glen	+1075	
Rubes Creek Tributary	Just upstream of Confluence with Rubes Creek	+918	Unincorporated Areas of Cobb County.
	Approximately 750 feet upstream of Keheley Road	+986	
Sewell Mill Creek	Just Upsteam of Greenfield Drive	+921	Unincorporated Areas of Cobb County, City of Smyrna.
	Just upstream of Karen Lane	+1084	
Smyrna Branch	Approximately 450 feet downstream of Cobb Drive	+933	
	Approximately 175 feet upstream of Powder Springs Street	+997	
Sope Branch	Just upstream of Confluence with Sope Creek	+1023	City of Marietta.
	Approximately 300 feet upstream of Sequoia Road	+1088	
Sope Creek	Just upstream of confluence with the Chattahoochee River	+808	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 1,025 feet upstream of Fairground Street	+1042	
Tanyard Creek	Approximately 1,275 feet upstream of Lake Acworth Drive	+864	Unincorporated Areas of Cobb County, City of Acworth.
	Approximately 300 feet downstream of Baker Plantation Drive	+919	
Theater Branch	Approximately 125 feet upstream of Old Concord Road	+929	Unincorporated Areas of Cobb County, City of Smyrna.
	Just downstream of Parkway Drive	+973	
Thompson Creek	Just upstream of the Confluence with Sewell Mill Creek	+934	Unincorporated Areas of Cobb County.
	Just upstream of Pine Road	+965	
Trickum Creek	Just upstream of Confluence with Rubes Creek	+911	Unincorporated Areas of Cobb County.
	Approximately 400 feet upstream of Pete Shaw Road	+1054	
Trickum Creek Tributary	Just upstream of confluence with Trickum Creek	+935	Unincorporated Areas of Cobb County.
	Just downstream of Jims Road	+1108	
Ward Creek	Approximately 600 feet upstream of Ernest Barrett Parkway	+926	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 50 feet downstream of Northcutt Street	+1050	
Westside Branch	At confluence with Ward Creek	+1016	City of Marietta.
	Approximately 500 feet upstream of the confluence with Ward Creek.	+1016	
Wildhorse Creek	At Confluence with Noses Creek	+907	Unincorporated Areas of Cobb County, City of Powder Springs.
	Just downstream of Macedonia Road	+907	
Wildwood Branch	Just upstream of the confluence with Sope Creek	+985	Unincorporated Areas of Cobb County, City of Marietta.
	Approximately 300 feet downstream of Varner Road	+1027	

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

ADDRESSES

City of Acworth

Maps are available for inspection at City Hall, 4415 Senator Russell Avenue, Acworth, GA 30101.

City of Austell

Maps are available for inspection at 2716 Broad Street, SW, Austell, GA 30106.

City of Kennesaw

Maps are available for inspection at 2529 J.O. Stephenson Avenue, Kennesaw, GA 30144.

City of Marietta

Maps are available for inspection at Development and Inspection Department, 205 Lawrence Street, Marietta, GA 30060.

City of Powder Springs

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

Maps are available for inspection at City Hall, 4484 Marietta Street, Powder Springs, GA 30127.

City of Smyrna

Maps are available for inspection at City Hall, 2800 King Street, Smyrna, GA 30080.

Unincorporated Areas of Cobb County

Maps are available for inspection at 100 Cherokee Street, Marietta, GA 30090.

Labette County, Kansas, and Incorporated Areas
Docket No.: FEMA–D–7826

Bachelor Creek	Approximately 0.81 mile upstream of confluence with Labette Creek.	+855	Unincorporated Areas of Labette County.
	Approximately 1.4 miles upstream of Ness Road	+888	
Labette Creek	Approximately 0.74 mile downstream of Southern Avenue	+864	City of Parsons, Unincorporated Areas of Labette County.
	Approximately 2.2 miles upstream of MKT Railroad	+892	
Labette Creek	Approximately 0.38 mile downstream of confluence with Bachelor Creek.	+855	Unincorporated Areas of Labette County.
	Approximately 3.03 miles upstream of confluence with Bachelor Creek.	+858	
Labette Creek Tributary A	Approximately 0.95 mile downstream of Rooks Road	+856	Unincorporated Areas of Labette County.
	Approximately 0.44 mile upstream of Rooks Road	+866	
Labette Creek Tributary B	Approximately 0.75 mile upstream of confluence with Labette Creek.	+859	Unincorporated Areas of Labette County.
	Approximately 1.07 miles upstream of Queens Road	+888	
Little Labette Creek	Approximately 0.27 mile downstream of MKT Railroad	+865	City of Parsons, Unincorporated Areas of Labette County.
	Approximately 0.45 mile upstream of U.S. Highway 160	+907	
Little Labette Creek Tributary A	Approximately 0.19 mile upstream of confluence with Little Labette Creek.	+885	Unincorporated Areas of Labette County.
	Approximately 1.30 miles upstream of Meade Road	+903	
Little Labette Creek Tributary B	Approximately 500 feet upstream of confluence with Little Labette Creek.	+897	Unincorporated Areas of Labette County.
	Approximately 0.23 mile upstream of U.S. Highway 160	+903	
Tolen Creek	Approximately 0.38 mile upstream of confluence with Labette Creek.	+880	City of Parsons, Unincorporated Areas of Labette County.
	Approximately 0.32 mile upstream of Pratt Road	+891	
Tolen Creek Tributary A	Approximately 0.11 mile upstream of confluence of Tolen Creek.	+883	City of Parsons, Unincorporated Areas of Labette County.
	Appromimately 1.46 miles upstream of U.S. Highway 160	+901	

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

ADDRESSES

City of Parsons

Maps are available for inspection at 112 South 17th Street, Parsons, KS 67357.

Unincorporated Areas of Labette County

Maps are available for inspection at 501 Merchant Street, Oswego, KS 67356.

Jefferson County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7751

Douglas Lake	Approximately 5,100 feet upstream of confluence of Leadvale Creek.	+1002	Unincorporated Areas of Jefferson County, City of Baneberry, Town of Dandridge.
	At Sevier/Jefferson county boundary	+1002	
Mossy Creek	Approximately 2,200 feet downstream of Russell Avenue	+1075	Unincorporated Areas of Jefferson County, Town of Jefferson City.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1,050 feet downstream of Russell Avenue	+1075	

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

ADDRESSES

City of Baneberry

Maps are available for inspection at 667 Harrison Ferry Road, Baneberry, TN 37890.

Town of Dandridge

Maps are available for inspection at P.O. Box 249, Dandridge, TN 37725.

Town of Jefferson City

Maps are available for inspection at P.O. Box 530, 112 West Broadway Boulevard, Jefferson City, TN 37760.

Unincorporated Areas of Jefferson County

Maps are available for inspection at P.O. Box 710, 214 West Main Street, Dandridge, TN 37725.

Lawrence County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7748

Buffalo River	Approximately 1,028 feet upstream of confluence of Saw Creek.	+792	Unincorporated Areas of Lawrence County.
	Approximately 2,040 feet upstream of State Highway 240	+812	
Shoal Creek	At New Shoal Creek Dam	+759	Unincorporated Areas of Lawrence County.
	Approximately 8,540 feet downstream of Old Waynesboro Highway.	+787	

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

ADDRESSES

Unincorporated Areas of Lawrence County

Maps are available for inspection at 240 West Gaines Street, Lawrenceburg, TN 38464.

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

Dated: June 25, 2008.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–15121 Filed 7–2–08; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–1406; MB Docket No. 08–12; RM–11414]

Radio Broadcasting Service; Dededo, Guam

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* the Audio Division issues a *Report and Order* granting a petition for rule making filed by Moy Communications, Inc. requesting the allotment of Channel 243C1 at Dededo, Guam. Channel 243C1 can be allotted at Dededo, Guam, in compliance with the Commission's technical engineering requirements, at 13–29–17 North Latitude and 144–49–35 West Longitude with a site restriction of 3.2 kilometers (2 miles) south of Dededo, Guam.

DATES: Effective July 28, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 08–12, adopted June 11, 2008, and released June 13, 2008. The *Notice of Proposed Rule Making* proposed the allotment of Channel 243C1 at Dededo, Guam. See 73 FR 9515, published February 21, 2008. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, D.C. 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of this *Report and Order* 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).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Guam, is amended by adding Dededo, Channel 243C1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. E8–14891 Filed 7–2–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–1403; MB Docket No. 07–211; RM–11400]

Radio Broadcasting Services; Harper, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Katherine Pyeatt, allots FM Channel 256C3 at Harper, Texas, as that community's first local service. Channel 259C3 can be allotted at Harper, Texas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.9 km (8.0 miles) east of Harper at the following reference coordinates: 30–16–20 North Latitude and 99–07–25 West Longitude. Concurrence in the allotment by the Government of Mexico is required because the proposed allotment is located within 320 kilometers (199 miles) of the U.S.-Mexican border. Although Mexican concurrence has been requested, notification has not been received. If a construction permit for Channel 228C3 at Paulden, Arizona, is granted prior to receipt of formal concurrence by the Mexican government, the authorization will include the following condition: ''Operation with the facilities specified herein for Paulden, Arizona, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if specifically objected to by the Government of Mexico.'' In addition, the allotment of Channel 256C3 at Harper, Texas, is subject to the final outcome of MM Docket No. 00–148 and MB Docket No. 05–112, and the Harper channel will not be available for auction until the dismissals of mutually-exclusive counterproposals in those proceedings are final.

DATES: Effective July 28, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 07–211, adopted June 11, 2008, and released June 13, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com*. The Commission will send a copy of this *Report and Order* 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).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Harper, Channel 256C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E8–15148 Filed 7–2–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 070718369–8731–02]

RIN 0648–AV34

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 30A

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 30A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule establishes accountability measures for the commercial and recreational fisheries for greater amberjack and gray triggerfish, establishes commercial quotas for greater amberjack and gray triggerfish, establishes a recreational quota for greater amberjack and recreational catch limits for gray triggerfish, increases the commercial and recreational minimum size limit for gray triggerfish, increases the recreational minimum size limit for greater amberjack, and reduces the greater amberjack bag limit to zero for captain and crew of a vessel operating as a charter vessel or headboat. In addition, Amendment 30A establishes management targets and thresholds for gray triggerfish consistent with the requirements of the Sustainable Fisheries Act. This final rule is intended to end overfishing of greater amberjack and gray triggerfish and to rebuild these stocks to sustainable levels.

DATES: This final rule is effective August 4, 2008.

ADDRESSES: Copies of the Final Supplemental Environmental Impact Statement (FSEIS), the Final Regulatory Flexibility Analysis (FRFA), and the Record of Decision (ROD) may be obtained from Peter Hood, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308; e-mail peter.hood@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Peter Hood, telephone 727–824–5305; fax 727–824–5308; e-mail *peter.hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is

managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On March 31, 2008, NMFS published a notice of availability of Amendment 30A and requested public comments (73 FR 16829). On April 8, 2008, NMFS published the proposed rule to implement Amendment 30A and requested public comments (73 FR 19040). NMFS approved Amendment 30A on June 20, 2008. The rationale for the measures in Amendment 30A is provided in the amendment and in the preamble to the proposed rule and is not repeated here.

Comments and Responses

NMFS received one public comment on Amendment 30A and the proposed rule. The following is a summary of the comment and NMFS' response.

Comment 1: Although management measures appear to be sufficient to rebuild greater amberjack and gray triggerfish stocks, increases in size limits can lead to an increased number of dead discards if assumptions about angler behavior, bycatch mortality, and the reproductive benefits to the stock are not met. Therefore, it is important that accountability measures are sufficient to identify and to ensure pay back of any overage in mortality in a timely fashion so as not to derail the rebuilding process.

Response: Levels of total allowable catch (TAC) required for greater amberjack and gray triggerfish stock rebuilding to occur within their respective rebuilding periods do consider discard mortality. This is a factor considered in the stock assessment, subsequent stock projections, and reductions in harvest derived from raising size limits. To ensure stock rebuilding is constrained to the rebuilding plan, the accountability measures (AMs) for each stock close the fisheries if the commercial or recreational quotas are reached or are projected to be reached. For the commercial greater amberjack and gray triggerfish fisheries, should the quota be exceeded, the following year's quota would be reduced to account for the overage. To ensure stock rebuilding is proceeding as anticipated, periodic assessment updates are planned to evaluate stock rebuilding. Based on these updates, any appropriate adjustments will be identified and addressed through subsequent rulemaking as necessary.

Classification

The Administrator, Southeast Region, NMFS, determined that Amendment 30A is necessary for the conservation and management of the greater amberjack and gray triggerfish fisheries in the Gulf of Mexico and that it is consistent with the Magnuson-Stevens Act, and other applicable laws.

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

NMFS prepared an SEIS for this amendment. A notice of availability for the draft SEIS was published on December 14, 2007 (72 FR 71137). A notice of availability for the FSEIS was published on April 18, 2008 (73 FR 21124).

An FRFA was prepared. The FRFA incorporates the initial regulatory flexibility analysis, a summary of the significant economic issues raised by public comments, NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

This final rule will directly affect vessels that operate in the Gulf of Mexico commercial reef fish fishery and for-hire reef fish fisheries, and reef fish dealers or processors. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters, for-hire operations, fish processors, and fish dealers. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all affiliated operations worldwide. For for-hire operations, the other qualifiers apply, and the annual receipts threshold is $6.5 million (NAICS code 713990, recreational industries). For seafood processors and dealers, rather than a receipts threshold, the SBA uses an employee threshold of 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated operations for a seafood processor and 100 or fewer persons for a seafood dealer.

Due to incomplete 2006 and 2007 data at the time the assessments were conducted, 2005 fishing data were used to evaluate the expected economic impacts of the final actions. A commercial reef fish permit is required to operate in the Gulf of Mexico commercial reef fish fishery, and a moratorium on the issuance of new permits has been in effect since 1992. On July 1, 2005, 1,209 commercial reef fish permits were either active (i.e., not expired--1,118 permits) or expired but eligible for renewal (91 permits), and this is considered to comprise the universe of commercial harvest operations in the fishery. However, 1,285 vessels reported reef fish landings in 2005, including vessels that transferred permits during the year. While all commercial reef fish permitted vessels can harvest greater amberjack or gray triggerfish, only 519 vessels landed greater amberjack, and 477 vessels landed gray triggerfish in 2005.

The annual average gross revenue and net income per vessel for vessels in the greater amberjack or gray triggerfish fishery is unknown. For all vessels in the commercial reef fish fishery, the average annual gross and net revenue, respectively, for vertical line vessels are estimated to range from approximately $24,100 (2005 dollars; $6,800 net revenue) to $110,100 ($28,500 net revenue), while the values for bottom longline vessels are approximately $87,600 (2005 dollars; $15,000 net revenue) to $117,000 ($25,500 net revenue). Some fleet behavior is known to exist in the commercial reef fish fishery, but the extent of such is unknown, though the maximum number of permits reported to be owned by the same entity is six. Additional permits in this and other fisheries (and associated revenues) may be linked through affiliation rules, but these links cannot be made using existing data. Nevertheless, based on the average annual gross revenue information for all commercial reef fish vessels, NMFS determines, for the purpose of this analysis, that all commercial reef fish entities potentially affected by this final rule are small business entities.

An estimated 1,692 vessels are permitted to operate in the Gulf of Mexico reef fish for-hire fishery. It is unknown how many of these vessels operate as headboats or charterboats, a distinction which is based on pricing behavior, and individual vessels may operate as both types of operations at different times. However, 76 vessels participate in the Federal headboat logbook program. Several entities own multiple for-hire permits, with at least one entity owning as many as 12 permits.

The average charterboat is estimated to generate approximately $77,000 (2005 dollars) in annual revenues, while the comparable figure for an average headboat is approximately $404,000 (2005 dollars). Based on the average annual gross revenue information for these vessels, NMFS determines, for the

purpose of this analysis, that all for-hire entities potentially affected by this final rule are small business entities.

An estimated 227 dealers are permitted to buy and sell Gulf of Mexico reef fish species. Based on vessel logbook records for 2005, 192 of these dealers actively bought and sold greater amberjack, while 177 bought and sold gray triggerfish. All reef fish processors would be included in this total since a processor must be a dealer. Dealers often hold multiple types of permits and operate in both Federal and state fisheries. It is unknown what percentage of any of the average dealer's business comes from either greater amberjack or gray triggerfish.

Average employment information per reef fish dealer is unknown. Although dealers and processors are not synonymous entities, total employment for reef fish processors in the Southeast is estimated at approximately 700 individuals, both part- and full-time. While all processors must be dealers, a dealer need not be a processor. Further, processing is a much more labor-intensive exercise than dealing. Therefore, given the employment estimate for the processing sector and the total number of dealers operating in the reef fish fishery, NMFS determines that the average number of employees per dealer and processor does not surpass the SBA employment benchmark and, NMFS determines, for the purpose of this analysis, that all dealers potentially affected by this rule are small entities.

This final action will reduce greater amberjack harvests by 26 percent in the recreational sector and 43 percent in the commercial sector, and gray triggerfish harvests by 60 percent and 61 percent for the recreational and commercial sectors, respectively. Although the expected harvest reductions are large, the subsequent impact on vessel profits will depend on the importance of these species to vessel revenues. In the commercial reef fish fishery, only 120 vessels landed more than 1,000 lb (454 kg) of greater amberjack in 2005 and only 31 vessels landed more than 10,000 lb (4,536 kg) of greater amberjack. For gray triggerfish, 44 vessels landed more than 1,000 lb (454 kg), and no vessels landed more than 10,000 lb (4,536 kg). Thus, 399 vessels, or approximately 77 percent of the fleet, landed less than 1,000 lb (454 kg) of greater amberjack, while 433 vessels, or approximately 91 percent of the fleet landed less than 1,000 lb (454 kg) of gray triggerfish. This suggests that relatively few vessels in the commercial reef fish fishery are dependent on greater amberjack, and even fewer would be expected to be dependent on gray triggerfish.

The final actions for greater amberjack are projected to result in a reduction of approximately $1.3 million in net revenues to commercial reef fish vessels over the 2008–2012 rebuilding period, or approximately $260,000 per year. This annual loss equates to an average of approximately $500 if distributed across all vessels landing greater amberjack (519) or $2,200 per vessel if distributed across just vessels landing greater than 1,000 lb (454 kg) (120). The final actions for gray triggerfish are projected to result in a reduction of approximately $716,000 in net income during the 2008–2012 rebuilding period, or $145,200 per year. This annual loss equates to approximately $300 per vessel if distributed among all vessels landing gray triggerfish (477) or $3,300 if distributed across only those vessels landing more than 1,000 lb (454 kg) of gray triggerfish (44).

While for-hire vessels do not derive revenues from greater amberjack or gray triggerfish sales, most vessels target these species at some time during the year. Assuming angler demand declines in response to the restrictions for these species, revenue and profit reductions can be projected. As a result of the final actions for greater amberjack, the for-hire sector is projected to experience a loss in net income of approximately $763,000 per year, while the final actions for gray triggerfish are projected to result in a loss of approximately $514,000 per year. If these losses were distributed equally across all vessels in the fishery, the resulting loss per vessel would be less than $800 per vessel. Some vessels are likely more dependent on these species than other vessels due to where they fish and client preferences and, thus, may be more severely impacted by the management measures.

Three alternatives, including the status quo, were considered for the action to modify the greater amberjack rebuilding plan. The final action, which is the status quo, will maintain the current stepped rebuilding plan, but will update the plan with data from the 2006 stock assessment. The first alternative to the final action would use the same yield projections as the final action, but would increase the TAC annually instead of stepped increases. The second alternative to the final action would also increase the TAC annually but would limit the total harvest over the 5 years of the plan to equal that under the final action. These alternatives were not selected for the final action because the Council believed the step increases will allow greater stability to the fishery while still allowing harvest to progressively increase.

Three alternatives, including the status quo, were considered for the action to specify accountability measures for greater amberjack. The final action will implement corrective action based on single-year fishery harvest totals. Because the greater amberjack fishery is nearer the end of the rebuilding plan, the single-year approach provides the greatest probability of ending overfishing and rebuilding the stock. The first alternative to the final action, the status quo, would not specify accountability measures and would not satisfy the requirements of the Magnuson-Stevens Act and was therefore rejected. The second alternative to the final action would trigger accountability measures on the single year projections for the 2008 fishing season, but would trigger accountability measures through multi-year analyses thereafter. This alternative was not selected for the final action because multi-year assessments and corrective actions would be expected to delay stock rebuilding, resulting in slower realization of benefits from a rebuilt stock.

Five alternatives, including the status quo, were considered for the action to establish management measures for the greater amberjack recreational fishery. The first alternative to the final suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to satisfy the rebuilding plan. This alternative would not, therefore, achieve the Council's objective. The second alternative to the final action would impose a higher size limit and, thus, was rejected because it would result in more adverse economic impacts. The third alternative to the final action would impose a 2-month seasonal closure. Since a closure would result in trip cancellations, this alternative would result in more adverse economic impacts than the final action which will simply restrict the catch but otherwise allow the fishery to remain open. The last alternative to the final action would impose both a seasonal closure and a higher size limit, and, thus, was rejected because it would result in even more adverse economic impacts.

Five alternatives, including the status quo, were considered for the action to establish management measures for the greater amberjack commercial fishery. The first alternative to the final suite of management measures, the status quo, would not alter current management measures and would not result in

sufficient harvest reduction to satisfy the rebuilding plan. This alternative would not, therefore, achieve the Council's objective and thus was rejected. The second alternative to the final action would impose a trip limit. Although this alternative would achieve the same reduction as the final action, it was rejected because it would tend to impose more restrictive limits on fishing operations as to eventually result in more adverse economic impacts. The third alternative to the final action would impose an even lower trip limit and thus it was rejected because it was estimated to result in more adverse economic impacts than the final action. The last alternative to the final action would add a 3-month seasonal closure to the existing 3-month closure. Although this would achieve about the same harvest reduction as the final action, fishermen have already indicated they lost a good part of their market to the existing 3-month closure so that adding three more months to the existing closed months would only exacerbate the situations fishermen would face. For these reasons, this alternative was rejected.

Three alternatives, including sub-options and the status quo, were considered for the action to define stock benchmarks for gray triggerfish. The first alternative to the final action, the status quo, would maintain current definitions of optimum yield and maximum fishing mortality threshold, but would not set an overfished threshold (minimum stock size threshold (MSST)), which is a required component of a fishery management plan. This alternative would not, therefore, achieve the Council's objective and thus was rejected. The second alternative to the final action would establish a less conservative MSST, which would increase the risk of not maintaining a healthy resource relative to the final action. For this reason, this alternative was rejected.

Three alternatives, including the status quo, were considered for the action to establish a gray triggerfish rebuilding plan. The first alternative to the final rebuilding plan, the status quo, would not establish a gray triggerfish rebuilding plan and thus it was rejected because it would not achieve the Council's objective. The second alternative to the final rebuilding plan would establish a stepped plan rather than the constant fishing mortality rebuilding plan under the final action. This alternative is projected to result in greater adverse short-term economic impacts than the final action, and thus was rejected.

Five alternatives were considered for the action to specify accountability measures for gray triggerfish. The final action will impose accountability measures for the recreational sector, with the period of evaluation increasing from a 1-year to a 2-year to a 3-year running average of landings as the rebuilding plan progresses. For the commercial sector, the final action will evaluate landings on an annual basis. The first alternative to the final gray triggerfish accountability measures, the status quo, would not specify accountability measures and thus it was rejected because it would not satisfy the requirements of the Magnuson-Stevens Act. The second and third alternatives to the final accountability measures would require corrective action only if the combined harvests of both the commercial and recreational sectors exceed the overall target levels, differing by the type of corrective action, allowing either a range of management harvest reduction tools, such as trip, bag, season, or minimum size adjustments, or limiting the corrective action to season length (closure). These alternatives were not chosen for the final action because they would not preserve the balance of sector allocations and would not achieve the enhanced stock recovery benefits of the final action. The fourth alternative to the final accountability measures would impose the same sector-specific and period-of-assessment requirements of the final action, but would result in a delay of corrective action because such action could only be imposed via temporary rulemaking as opposed to simple notice under the final action. This delay would be expected to increase the severity of corrective actions, thereby imposing greater adverse economic impacts relative to the final action.

Two alternatives, including the status quo, were considered for the action on regional gray triggerfish management. The final action is the status quo, which will not establish different gray triggerfish management measures for the eastern and western Gulf. The only other alternative to the final action would divide the management area for gray triggerfish into two regions, namely, east and west of the Mississippi River, and limit all gray triggerfish restrictive measures to the region east of the Mississippi River. This alternative would be inconsistent with the identification of the species as a single stock throughout the Gulf of Mexico and would not rebuild the resource uniformly throughout its range and, thus, would not achieve the Council's objective.

Four alternatives, including the status quo, were considered for the action to establish management measures for the recreational gray triggerfish fishery. The first alternative to the final suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to satisfy the rebuilding plan. For these reasons, this alternative was rejected. The second alternative to the final action would establish a bag limit and increase the size limit for gray triggerfish while the third alternative to the final action would impose an even lower bag limit but retain the size limit for gray triggerfish. These two additional alternatives would not achieve the necessary harvest reductions for the recreational sector and would not, therefore, achieve the Council's objective. Thus these alternatives were rejected.

Six alternatives, including the status quo, were considered for the action to establish management measures for the commercial gray triggerfish fishery. The first alternative to the final suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to satisfy the rebuilding plan. Thus this alternative was rejected. The other four alternatives to the final action would: (1) Establish a very low trip limit; (2) increase the size limit; (3) increase the size limit and impose a trip limit; and, (4) slightly increase the size limit and impose a lower trip limit. These four other alternatives are projected to result in greater harvest reductions than are required to satisfy the rebuilding plan. Also, these alternatives were not selected for the final action because specifying a quota in addition to the minimum size limit, as will occur under the final action, was expected to provide greater control over total harvest and better ensure that rebuilding plan goals are realized.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 27, 2008

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.2, the definitions of ''accountability measures'' and ''annual catch limit'' are added in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Accountability measure means a management control implemented such that overfishing is prevented, where possible, and mitigated if it occurs.

* * * * *

Annual catch limit (ACL) means the level of catch that serves as the basis for invoking accountability measures.

* * * * *

■ 3. In § 622.37, paragraphs (d)(3)(i) and (d)(3)(iv) are revised to read as follows:

§ 622.37 Size limits.

* * * * *

(d) * * *

(3) * * *

(i) Gray triggerfish -14 inches (35.6 cm), fork length.

* * * * *

(iv) Greater amberjack -30 inches (76 cm), fork length, for a fish taken by a person subject to the bag limit specified in § 622.39(b)(1)(i) and 36 inches (91.4 cm), fork length, for a fish taken by a person not subject to the bag limit.

* * * * *

■ 4. In § 622.39, paragraph (b)(1)(i) is revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

(i) Greater amberjack—1. However, no greater amberjack may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

* * * * *

■ 5. In § 622.42, paragraphs (a)(1)(v) and (a)(1)(vi) are added, and paragraph (a)(2) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(a) * * *

(1) * * *

(v) Greater amberjack—503,000 lb (228,157 kg), round weight.

(vi) Gray triggerfish—(A) *For fishing year 2008*—80,000 lb (36,287 kg), round weight.

(B) For fishing year 2009 -93,000 lb (42,184 kg), round weight.

(C) *For fishing year 2010 and subsequent fishing years*—106,000 lb (48,081 kg), round weight.

(2) *Recreational quotas*. The following quotas apply to persons who fish for Gulf reef fish other than under commercial vessel permits for Gulf reef fish and the applicable commercial quotas specified in paragraph (a)(1) of this section.

(i) *Recreational quota for red snapper*. The recreational quota for red snapper is 2.45 million lb (1.11 million kg), round weight.

(ii) *Recreational quota for greater amberjack*. The recreational quota for greater amberjack is 1,368,000 lb (620,514 kg), round weight.

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■ 6. In § 622.43, paragraph (a)(1)(iii) is added to read as follows:

§ 622.43 Closures.

* * * * *

(a) * * *

(1) * * *

(iii) *Recreational quota for greater amberjack*. The bag and possession limit for greater amberjack in or from the Gulf EEZ is zero.

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■ 7. Section 622.49 is added to subpart C to read as follows:

§ 622.49 Accountability measures.

(a) *Gulf reef fish*—(1) *Greater amberjack*—(i) *Commercial fishery*. If commercial landings, as estimated by the SRD, reach or are projected to reach the applicable quota specified in § 622.42(a)(1)(v), the Assistant Administrator for Fisheries, NOAA, (AA) will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year. In addition, if despite such closure, commercial landings exceed the quota, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the quota for that following year by the amount of the overage in the prior fishing year.

(ii) *Recreational fishery*. If recreational landings, as estimated by the SRD, reach or are projected to reach the applicable recreational quota specified in § 622.42(a)(2)(ii), the AA will file a notification with the Office of the Federal Register, to close the recreational fishery for the remainder of the fishing year. In addition, if despite such closure, recreational landings exceed the quota, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the length of the recreational fishing season for the following fishing year by the amount necessary to recover the overage from the prior fishing year. Further, during that following year, if necessary, the AA may file additional notification with the Office of the Federal Register to readjust the reduced fishing season to ensure recreational harvest achieves but does not exceed the intended harvest level.

(2) *Gray triggerfish*—(i) *Commercial fishery*. If commercial landings, as estimated by the SRD, reach or are projected to reach the applicable quota specified in § 622.42(a)(1)(vi), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year. In addition, if despite such closure, commercial landings exceed the applicable annual catch limit (ACL), the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the quota for that following year by the amount the prior-year ACL was exceeded. The applicable ACLs are 105,000 lb (47,627 kg) for 2008, 122,000 lb (55,338 kg) for 2009, and 138,000 lb (62,596 kg) for 2010 and subsequent fishing years.

(ii) *Recreational fishery*. If recreational landings, as estimated by the SRD, exceed the applicable ACL, the AA will file a notification with the Office of the Federal Register reducing the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational target total allowable catch for that following fishing year. The applicable ACLs are 394,000 lb (178,715 kg) for 2008, 426,000 lb (193,230 kg) for 2009, and 457,000 lb (207,291 kg) for 2010 and subsequent fishing years. The recreational target total allowable catches are 356,000 lb (161,479 kg) for 2009 and 405,000 lb (183,705 kg) for 2010 and subsequent fishing years. Recreational landings will be evaluated relative to the applicable ACL as follows. For 2008, only 2008 recreational landings will be compared to the ACL; in 2009, the average of 2008 and 2009 recreational landings will be compared to the ACL; and in 2010 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL.

(b) [Reserved]

[FR Doc. E8–15151 Filed 7–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 080130104–8560–02]

RIN 0648–AW46

Atlantic Highly Migratory Species; Renewal of Atlantic Tunas Longline Limited Access Permits; Atlantic Shark Dealer Workshop Attendance Requirements

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

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing the renewal of Atlantic tunas longline limited access permits (LAPs), and amends the workshop attendance requirements for businesses issued Atlantic shark dealer permits. Specifically, these regulatory changes allow for the renewal of Atlantic tunas longline LAPs that have been expired for more than one year by the most recent permit holder of record, provided that the applicant has been issued a swordfish LAP (other than a handgear LAP) and a shark LAP, and all other requirements for permit renewal are met. Also, this rule amends the Atlantic Shark Identification Workshop requirements by: specifying that a workshop certificate be submitted upon permit renewal, and later possessed and available for inspection, for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade (rather than for each location listed on their dealer permit); and requiring that extensions of a dealer's business, such as trucks or other conveyances, must possess a copy of a valid dealer or proxy certificate issued to a place of business listed on the dealer permit.

DATES: This final rule is effective August 4, 2008.

ADDRESSES: Copies of the final Regulatory Impact Review/Final Regulatory Flexibility Analysis (Final RIR/FRFA); and, related documents including a 2007 Final Environmental Assessment (EA) and final rule (72 FR 31688, June 7, 2007) implementing revised vessel upgrading regulations for vessels issued Atlantic tunas longline, swordfish, and shark LAPs; and the 2006 Final Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and its final rule (71 FR 58058, October 2, 2006) implementing Atlantic Shark Identification Workshops are available from the HMS Management Division website at: *http://www.nmfs.noaa.gov/sfa/hms* or by contacting Richard A. Pearson (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, by phone: 727–824–5399; by fax: 727–824–5398.

SUPPLEMENTARY INFORMATION:

Background

Atlantic tuna and swordfish fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). Atlantic sharks are managed under the authority of the Magnuson-Stevens Act. The Consolidated HMS FMP is implemented by regulations at 50 CFR part 635.

Renewal of Atlantic Tunas Longline LAPs

LAPs were first implemented in HMS fisheries in 1999 primarily to provide a limit on harvesting capacity in Atlantic swordfish and shark fisheries to reduce the likelihood of exceeding the available quota for these species, and to facilitate other fishery management measures implemented at the time. The Atlantic tunas longline LAP was also established at that time because of the potential for encountering swordfish and sharks when fishing with pelagic longline (PLL) gear for Atlantic tunas, and vice-versa. In recognition of the interrelationship between these longline fisheries, the Atlantic tunas longline LAP complemented the management measures that had been developed for Atlantic swordfish and shark.

Since 1999, vessel owners have been required to simultaneously possess three permits (Atlantic tunas longline; swordfish directed or incidental; and, shark directed or incidental) in order to retain Atlantic tunas caught with longline gear, or to retain swordfish caught with any gear other than handgear. An Atlantic tunas longline LAP is only considered valid, or useable, if the vessel has also been issued both a shark LAP and a swordfish LAP (other than handgear). Similarly, a swordfish LAP (other than handgear) is only considered valid, or useable, when a vessel has also been issued both a shark LAP and an Atlantic tunas longline LAP. The current regulations for each of these permits specify that only persons holding non-expired LAPs in the preceding year are eligible to renew those permits.

In 2007, NMFS identified approximately 40 vessel owners that had allowed their Atlantic tunas longline LAPs to lapse for more than one year, thus making them ineligible to renew that permit. In most cases, the vessel owners had maintained their accompanying swordfish and shark LAPs through timely renewal. However, because they are ineligible to renew their Atlantic tunas longline LAP, they are not currently allowed to fish for tunas with PLL gear or to retain swordfish, even though they have been issued a swordfish permit. Currently, the number of available Atlantic tunas longline LAPs is insufficient to match the number of available swordfish and shark incidental or directed permits, thus rendering many swordfish permits invalid, or unusable, because all three permits are required to retain swordfish (with any gear other than handgear).

The scope of this problem was not fully recognized until September 2007, when NMFS was determining which vessels qualified for revised vessel upgrading regulations (72 FR 31688, June 7, 2007), depending upon whether the vessel was concurrently issued a directed or incidental swordfish LAP, a directed or incidental shark LAP, and an Atlantic tunas longline LAP. At that time, NMFS learned that approximately 40 vessel owners had inadvertently failed to renew their Atlantic tunas longline LAP because of operational constraints associated with the Atlantic tunas longline permit issuance system, or because of significant differences in the renewal procedures for swordfish/shark LAPs and the Atlantic tunas longline LAP.

There was confusion within the fishing industry regarding the renewal, issuance, eligibility, and applicability of the one-year renewal requirement for the Atlantic tunas longline LAP because the operational procedures for renewing an Atlantic tunas longline LAP were substantially different than for swordfish and shark LAPs. The Atlantic tunas longline permit renewal system was originally developed as a self-service, web-based electronic system that was administered by a non-NMFS contractor for the primary purpose of issuing open access permits. In contrast, swordfish and shark LAPs are issued and renewed by submitting paper applications to NMFS' Southeast Region permits office. A significant difference between the two permit systems is that the Atlantic tunas longline LAP cannot be held in ''no vessel'' status, meaning that the permit cannot be renewed without specifying a vessel. An Atlantic tunas longline permit holder must either move the permit to a replacement vessel

or forfeit the permit. Many vessel owners indicated that they were not aware of these options, or misunderstood them, and let their Atlantic tunas longline LAP expire because they no longer owned a vessel but thought they remained eligible to renew the permit.

Another difference between the Atlantic tunas longline LAP and swordfish and shark LAPs is that the Atlantic tunas longline LAP does not have a unique permit number associated with it that stays unchanged if the permit is transferred to another vessel, whereas swordfish and shark permits do. Therefore, ''ownership'' of the Atlantic tunas longline LAP is more difficult to track over time because the permit number changes with each transfer of the permit to another vessel.

This final rule amends the HMS regulations to remove the one-year renewal timeframe for Atlantic tunas longline LAPs. This modification will better reflect the operational capabilities of the Atlantic tunas longline permit renewal system and reduce the potential for future confusion. It will allow NMFS, upon receipt of a complete permit application, to reissue an Atlantic tunas longline LAP to the most recent permit holder of record even if the permit had not been renewed within one year of expiration, provided that the applicant has already been issued a swordfish LAP (other than a handgear LAP), a shark LAP, and all other current requirements for permit renewal are met. This final rule does not amend the permit renewal regulations for swordfish and shark LAPs which will continue to specify that only persons holding non-expired swordfish and shark LAPs in the preceding year are eligible to renew those permits. Also, the requirement to possess all three valid LAPs (swordfish incidental or directed; shark incidental or directed; and Atlantic tunas longline) in order to fish for tunas with PLL gear and to retain commercially-caught swordfish (other than with a swordfish handgear LAP) remains unchanged. Thus, the final management measures will not increase the number of Atlantic tunas longline LAPs issued to an amount higher than the number of swordfish LAPs (incidental or directed) that are currently issued or are eligible to be renewed.

This action will help to ensure that an adequate number of complementary Atlantic tunas longline LAPs are available for swordfish and shark commercial LAP holders to fish legally for Atlantic swordfish and tunas with PLL gear. Consistent with the Magnuson-Stevens Act and ATCA, it will also help provide a reasonable opportunity for U.S. vessels to more fully harvest the domestic swordfish quota, which is derived from the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). This final rule reinforces recent efforts by NMFS to ''revitalize'' the PLL fishery, recognizing that the North Atlantic stock is almost fully rebuilt (B = 0.99Bmsy) but domestic landings have been well below the U.S. swordfish quota in recent years. In doing so, this action could help the United States retain its historic swordfish quota allocation at ICCAT.

Atlantic Shark Dealer Workshop Requirements

To improve the identification and reporting of shark species by dealers for accurate quota monitoring and stock assessments, existing HMS regulations at 50 CFR 635.8 require that Atlantic shark dealers attend an Atlantic Shark Identification Workshop and submit a copy of the workshop certificate in order to renew their permit. If a dealer attends and successfully completes a workshop, the dealer will receive a workshop certificate for each location listed on their Atlantic shark dealer permit. If the dealer chooses to send a proxy to a workshop, the existing regulations require them to send a proxy for each location listed on their Atlantic shark dealer permit. Under these regulations, Atlantic shark dealers may not renew their Atlantic shark dealer permit without submitting either a dealer or proxy certificate for each location listed on their Atlantic shark dealer permit. Additionally, Atlantic shark dealers may not act as the ''first-receivers'' of shark products at any location unless a valid workshop certificate is on the premises of each place of business listed on their shark dealer permit. As described in the final rule for Amendment 2 for the Management of Atlantic Shark Fisheries (73 FR 35778, June 24, 2008), ''first-receiver'' means any entity, person, or company that takes, for commercial purposes (other than solely for transport), immediate possession of the fish, or any part of the fish, as the fish are offloaded from a fishing vessel of the United States, as defined under § 600.10 of this chapter, whose owner or operator has been issued, or should be have been issued, a valid permit under this part.

Since the implementation of these requirements, NMFS has learned that some shark dealers may not be acting as the first receiver of shark products at all of the locations listed on their permit. For example, a dealer may purchase red snapper at one location, and shark at another location. However, because the shark dealer's permit lists both locations as owned by the dealer, including the snapper-only site, the existing regulations require them to submit an Atlantic Shark Identification Workshop certificate (proxy or dealer) upon permit renewal for both the shark site and the snapper site, and to later possess the certificate at both sites. This is an impractical and unnecessary result. When NMFS recognized that the existing regulations required this practice, the agency decided to correct and amend the process.

For technical and programmatic reasons, it is not feasible for NMFS to modify the permit database to specify only locations on the shark dealer permit that actually receive shark products if the dealer also has other locations where other species are received. To remedy this situation, the final rule amends the HMS regulations by specifying that, when applying for or renewing an Atlantic shark dealer permit, an applicant must submit an Atlantic Shark Identification Workshop certificate (dealer or proxy) for each place of business listed on the shark dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, rather than for each location listed on the shark dealer permit. This will eliminate the need for a shark dealer to send a proxy to a workshop to obtain a certificate for a location that does not actually receive Atlantic shark products. Similarly, the requirement to possess, and make available for inspection, an Atlantic Shark Identification Workshop certificate will only be required at locations listed on the dealer permit where sharks are first received rather than from each location listed on the shark dealer permit. Finally, this final rule requires that extensions of a dealer's business, such as trucks or other conveyances, must possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. This will immediately identify trucks or other conveyances as extensions of a NMFS-certified place of business which is eligible to receive Atlantic sharks. With these minor amendments, the objective of improved identification and reporting of shark species is expected to continue, while impacts on dealers may be lessened.

Clarification of Buoy Gear Usage

In this final rule, NMFS also makes a technical clarification in the ''gear operation and deployment restrictions'' section of the HMS regulations regarding which permit holders are authorized to utilize buoy gear. This

technical clarification does not substantively change the buoy gear usage requirements. It clarifies that only vessels issued a valid directed or handgear swordfish LAP may possess and utilize buoy gear. This clarification addresses questions and comments received from constituents, and ensures consistency with existing HMS regulations at § 635.71(e)(10) which already specify that only these permit holders may possess or utilize buoy gear.

A description of the alternatives for this action was provided in the Classification section of the proposed rule (73 FR 19795, April 11, 2008) and is not repeated here. Additional information can be found in the Final RIR/FRFA prepared for this rule and is available from NMFS (see **ADDRESSES**).

The public comment period for the proposed rule (73 FR 19795, April 11, 2008) was open from April 11, 2008, to May 12, 2008. During that time, NMFS conducted three public hearings in Gloucester, MA (May 1, 2008), St. Petersburg, FL (May 6, 2008), and Silver Spring, MD (May 7, 2008). In addition, the HMS Advisory Panel (HMS AP) received a presentation and was provided with an opportunity to comment on the proposed rule on April 16, 2008. The Agency received six written or electronic comment letters, and several verbal comments from the HMS AP and at public hearings. A summary of the major comments (26 total) received, along with NMFS' response, is provided below.

Response to Comments

These comments and responses are divided into two major categories: those that discuss the renewal of Atlantic tunas longline LAPs (23 comments) and those that discuss Atlantic shark dealer workshop requirements (3 comments).

Renewal of Atlantic Tunas Longline LAPs

Comment 1: All longlines should be banned. It is time for NMFS to prohibit these forty mile longlines from being used in the ocean and killing everything in their path. The proposed rule is far too lenient.

Response: The U.S. PLL fishery provides jobs and income for fishery participants, and wholesome food products for consumers. NMFS continually assesses the PLL fishery and, if necessary, implements management measures to ensure that bycatch and bycatch mortality of protected and nontarget species are minimized to the extent practicable. In addition, based upon the best scientific information available, the agency develops and implements management measures to prevent overfishing and rebuild overfished stocks. Some of these management measures include the mandatory use of circle hooks in the PLL fishery, bait restrictions, gear requirements, mandatory training at release and disentanglement workshops, mandatory release and disentanglement gear, time/area closures, mandatory vessel monitoring systems, logbook and reporting requirements, observer coverage, minimum size limits, catch limits, annual quotas, target catch requirements, limited access permits, and vessel upgrading restrictions. The implementation of these measures has resulted in a well-managed domestic fishery. This final rule is not expected to have significant adverse environmental impacts because the resultant number of authorized PLL vessels will not exceed the number of vessels that are currently issued, or are eligible to renew, swordfish directed and incidental permits. At most, 40 Atlantic tunas longline LAPs could be reissued as a result of this rule, but all of these permits have been issued before, since LAPs were first required in 1999.

Comment 2: The Atlantic tunas longline LAP was established eight or nine years ago. Why is NMFS only finding out now that 40 former permit holders did not renew their permits by the required deadline?

Response: The magnitude of this issue came to the forefront during implementation of revised vessel upgrading regulations for vessels which were concurrently issued, or eligible to renew, swordfish, shark and Atlantic tunas longline LAPs in August 2007. Prior to that time, NMFS recognized that some permit holders had failed to renew their Atlantic tunas LAP within one year of expiration, but the agency was not aware that many of these same permit holders had maintained their swordfish and shark LAPs through timely renewal. NMFS found that some permit holders had inadvertently let their Atlantic tunas longline LAP expire because they misunderstood the differences in the permit renewal process for swordfish/shark LAPs and Atlantic tunas longline LAPs (as discussed in detail in the proposed rule (73 FR 19795, April 11, 2008)). NMFS also found that some swordfish and shark permit holders were not able to renew their Atlantic tunas longline LAP because they did not possess a vessel; the tuna permitting system cannot issue a permit without vessel information. For these reasons, the agency is amending the HMS regulations to be more reflective of the operational capabilities of the Atlantic tunas longline permit issuance system and to reduce confusion regarding the renewal of this permit.

Comment 3: If I have an incidental swordfish permit and a shark permit, is NMFS going to issue me a tuna longline permit as a result of this rule?

Response: Not necessarily. This final action only amends the regulations regarding the renewal of expired Atlantic tunas longline LAPs. Only the most recent permit holder of record will be eligible to renew that permit even if it has been expired for more than one year. The Atlantic tunas longline LAP remains a limited access permit. As stated in 50 CFR 635.4(d)(4), the permit may only be obtained through transfer from current owners. This means that the concurrent possession, or issuance, of swordfish and shark directed or incidental LAPs does not automatically entitle a person to an Atlantic tunas longline LAP. It must still be obtained through permit transfer.

Comment 4: Will reissuing 40 Atlantic tunas longline LAPs create the complementary balance of permits that NMFS is hoping to achieve, or will the agency have to issue more permits? How many shark and swordfish boats are looking for Atlantic tunas longline LAPs?

Response: There are approximately 40 vessels that have been issued, or are eligible to renew, swordfish and shark permits that need an Atlantic tunas longline LAP to complete the three-permit combination that is necessary to retain swordfish (other than with handgear) or to fish for tunas with PLL gear. As of August 6, 2007, there were approximately 288 directed and incidental swordfish permits, 542 directed and incidental shark permits, and 268 Atlantic tunas longline LAPs that were issued or were eligible for renewal. Of these, 245 vessels were concurrently issued, or were eligible to renew, all three permits. The availability of the Atlantic tunas longline LAP has been a limiting factor in the number of vessels that are eligible to retain swordfish or fish for HMS with PLL gear. Renewing approximately 40 Atlantic tunas longline LAPs should help to complement the available number of swordfish permits. Because most of the 40 vessels affected by this final rule have already been issued swordfish and shark LAPs, the number of authorized PLL vessels could potentially increase from approximately 245 to 285. However, it is not known if every former permit holder will apply to renew the Atlantic tunas longline LAP, so the actual increase in the number of PLL vessels could be less.

Comment 5: How many inactive PLL vessels are there that have been issued the three necessary permits?

Response: There are about 131 vessels out of 245 vessels authorized to fish with PLL gear that did not report any landings in the HMS logbook in 2006. These 131 vessels are considered to be currently inactive in the HMS fishery.

Comment 6: I support the proposed rule and other actions to increase U.S. swordfish landings. The U.S. swordfish quota is going to be reduced at ICCAT. When the swordfish quota is reduced, it will adversely affect both recreational and commercial fishermen. There are people that cannot currently fish and contribute to catching the domestic swordfish quota because they do not possess the three necessary permits. There are many reasons why people did not renew their permits. Some people were laid up due to illness or vessel maintenance. There is no reason for these permits to be latent. They should be reissued and put back into circulation so that shark and swordfish permit holders can get back to landing product. The United States needs to have more boats on the water fishing, and the boats must have the proper permits to do that.

Response: This final rule could potentially increase the number of vessels authorized to retain swordfish, and fish for tunas with PLL gear, to a level approximately equal to the number of vessels issued a swordfish LAP. However, it is not known if every former Atlantic tunas longline permit holder affected by this rule will apply to renew the permit, so the actual increase in permit numbers and fishing vessels may be less than 40. This rule will remove an administrative barrier to renewing the Atlantic tunas longline LAP, and provide an opportunity for some current swordfish and shark permit holders to reenter the PLL fishery. If they choose not to fish, these permit holders could renew their Atlantic tunas longline LAP to ''complete'' their HMS permit package and then transfer their permits to another vessel owner. In either case, more HMS three-permit combinations could become available for use in the PLL fishery as a result of this rule.

Comment 7: The proposed action will not increase domestic swordfish landings enough to have any impact at ICCAT.

Response: This final action is not likely to immediately increase domestic swordfish landings to a level where the United States will meet or exceed its domestic swordfish quota. However, it will reduce an administrative barrier to renewing the Atlantic tunas longline LAP, and provide an opportunity for some current permit holders with swordfish and shark LAPs to reenter the PLL fishery. It will help to reduce the rate of attrition in the HMS PLL fishery by increasing the overall number of available ''complete'' PLL permit packages. If all 40 vessel owners affected by this rule immediately obtain their Atlantic tunas longline LAP and begin fishing for swordfish, landings could significantly increase.

Comment 8: Why doesn't the Atlantic tunas longline LAP have a ''no vessel'' status?

Response: The Atlantic tunas longline LAP does not have a ''no vessel'' status because the permit issuance system was originally designed for open access permits, which do not need ''no vessel'' status, such as the General category tuna permit and the HMS Angling category permit. In order to renew a permit, the online system requires applicants to enter vessel information. After the permit is issued, the permit number remains associated with the vessel and its U.S. Coast Guard documentation or state registration number. This system works well for open access permits, which do not have a ''sunset'' requirement specifying that the permit must be renewed within one year of expiration. However, if an Atlantic tunas longline permit holder sells their vessel but legally retains the limited access permit, the permit cannot be renewed without entering vessel information. Problems with the ''sunset'' requirement have arisen when a legally-retained permit was not issued to a vessel within one year of expiration. This final rule will allow Atlantic tunas longline LAPs to be retained, and later renewed, by the most recent permit holder of record even if the permit has not been issued to a vessel for more than one year. In that regard, this final rule accomplishes the same objective as providing ''no vessel'' status for Atlantic tunas longline LAPs.

Comment 9: NMFS should get rid of ''no vessel'' permit status. Latent permits have no effect on increasing swordfish tonnage.

Response: NMFS believes it is important for LAP holders to have the ability to retain their permit(s) without possessing a vessel. It provides flexibility to permit holders who originally qualified for an LAP and it facilitates permit transferability. There are many circumstances where a permit holder might not own a vessel, might not be able to fish, or might choose not to fish. For example their vessel may have sunk, been sold, or fishery conditions might preclude participation. Providing LAP holders with the ability to retain their permits without owning a vessel provides time for them to find a suitable replacement vessel, or time to make necessary business decisions. Nevertheless, in a future rulemaking, the Agency may consider alternatives to address latent fishing effort.

Comment 10: If a legitimate fisherman made a mistake in not renewing their Atlantic tunas longline LAP, they should be allowed to obtain a new permit. To verify this, NMFS should put a specific timeframe or qualification criteria on the 40 vessels with expired permits. In order to obtain a new permit, they must have fished within a certain period of time. If they did not fish within that timeframe, then they should not be reissued the permit. Otherwise, the proposed rule opens a Pandora's box.

Response: The establishment of restrictive qualification criteria to become eligible for newly reissued permits runs counter to the primary intent of this rulemaking, which is to help ensure that the number of available Atlantic tunas longline LAPs is sufficient to match the number of available swordfish and shark LAPs. There are restrictions associated with this final rule, however. NMFS will reissue Atlantic tunas longline LAPs that have been expired for more than one year only upon receipt of a complete permit renewal application from the most recent permit holder of record, provided that they have also been issued valid swordfish and shark LAPs and all other permit renewal requirements are met. Former permit holders must apply for the Atlantic tunas longline LAP, as NMFS will not automatically reissue the permit to all former permit holders. This action will not increase the number of PLL vessels above the number of vessels that are currently issued, or eligible to renew, swordfish directed and incidental permits. At most, approximately 40 permits could be reissued as a result of this rule but all of these permits have been issued before, since LAPs were first implemented in 1999. In a future rulemaking, the Agency may consider alternatives to address latent fishing effort.

Comment 11: I support the preferred alternative which would remove the one year renewal timeframe on Atlantic tunas longline LAPs and allow the agency to reissue this permit to the most recent permit holder of record. This would allow me to renew my permit and make my incidental swordfish permit valid again. It provides an opportunity for me to retain the incidental swordfish possession limit that may be caught while fishing for *Illex* squid. This is a significant benefit

to my business and it will not have a negative impact on the swordfish stock. There are between 50 - 70 LAPs issued for *Illex* squid, and about 20 active *Illex* squid vessels. Four to five of these vessel owners would seek to renew their expired Atlantic tunas longline LAP.

Response: NMFS recognizes that some *Illex* squid trawl vessel owners indicated that they misunderstood the requirement which specifies that, in order to retain incidentally-caught swordfish, it is necessary to be issued an Atlantic tunas longline LAP, a shark LAP, and a swordfish LAP (other than handgear). This final rule will allow some squid trawl vessel owners to renew their expired Atlantic tunas longline LAP, thereby allowing them to retain incidentally-caught swordfish, reduce or eliminate regulatory swordfish discards, and obtain economic benefits.

Comment 12: NMFS should consider allowing squid trawlers to obtain an incidental swordfish LAP without requiring them to also obtain a corresponding Atlantic tunas longline LAP and a shark LAP. These vessels fish in approximately 150 - 200 fathoms on the edge of the continental shelf and rarely, if ever, catch tunas or sharks. They do not direct fishing effort on swordfish because it is unfeasible. This modification would allow only for the retention of incidentally-caught swordfish.

Response: This comment is beyond the scope of this rulemaking, however NMFS may consider the recommendation in a future rulemaking.

Comment 13: I am concerned about the language which requires that the swordfish and shark LAPs must have ''been maintained through timely renewal'' in order to be eligible for a reissued Atlantic tunas longline LAP. My vessel lost its Atlantic tunas longline LAP because of non-renewal. I then transferred its swordfish and shark permits to another vessel. If the swordfish and shark permits are transferred back to the original vessel (the one that lost its tuna permit), will that vessel still be eligible for a reissued Atlantic tunas longline LAP as a result of this rule?

Response: To clarify, upon receipt of a complete permit renewal application, NMFS will reissue Atlantic tunas longline LAPs that have been expired for more than one year to the most recent permit holder of record, but only if the vessel has also been issued both a shark LAP and a swordfish LAP (other than handgear), and all other requirements for permit renewal are met. Because the shark and swordfish LAPs must already be issued, those permits would have been maintained through timely renewal. In the situation described in this comment, the vessel would be eligible for a newly reissued Atlantic tunas longline LAP if it was previously issued the tuna permit, and was currently issued both swordfish and shark LAPs, regardless of whether those swordfish and shark LAPs were transferred from another vessel.

Comment 14: NMFS should require that permit recipients have a boat as a qualification criterion before reissuing a new Atlantic tunas longline LAP. If a fisherman invests in building or buying a boat, it demonstrates their commitment to the fishery and they should be reissued the permit. This requirement would also prevent permits from being sold from one area to another area.

Response: Under this final rule, the eligibility to be issued an Atlantic tunas longline LAP will not be dependent upon possessing a vessel. The most recent permit holder of record for an Atlantic tunas longline LAP will be eligible to renew that permit with no ''sunset'' date. However, the permit cannot actually be reissued until the most recent permit holder of record possesses a vessel for which the permit can be issued. NMFS believes that the establishment of more restrictive qualification criteria, such as owning a vessel to become eligible for a newly reissued permit, would run counter to the intent of this rulemaking which is to ensure that the available number of Atlantic tunas longline LAPs is sufficient to match the number of available swordfish and shark LAPs.

Comment 15: NMFS should not require that newly reissued permits be linked to a vessel. Vessels can sink or be taken out of service for many reasons. Therefore, people need to have the flexibility to keep their permits separate from vessels so that the permit can be used later. Some people might not be able to get back into the fishery because they are sick or incapacitated. However, they should be allowed to keep their permit in ''no vessel'' status and to sell it later so that it can actually be used to fish.

Response: As described above in the response to Comment 14, it is necessary for a person to possess a vessel in order to be issued, or reissued, an Atlantic tunas longline LAP. This is a function of the permit renewal system. However, the eligibility to be issued an Atlantic tunas longline LAP will not be dependent upon possessing a vessel. Therefore, if a person was previously issued an Atlantic tunas longline LAP and they remain the most recent permit holder of record, they would be eligible to renew the permit with no ''sunset'' date, but the permit could not actually be issued until there is a vessel to which the permit may be issued. They would not lose their eligibility to renew their permit if they do not have a vessel, or if they become sick or incapacitated.

Comment 16: I oppose the proposed rule. The proposed regulations will allow people who didn't follow the law regarding permit renewals to obtain an Atlantic tunas longline LAP. Some fishermen paid a lot of money to buy that permit. The proposed rule would allow people who are reissued the permit to obtain an economic benefit. Why is NMFS rewarding these 40 individuals? This rule makes a difference to people who had to buy a permit for a lot of money. The 40 affected individuals have not been fishing. They parked their permit, and now they will be able to renew it. NMFS should be more forthright about why it is allowing these people to renew their permit if it has been expired for more than one year.

Response: NMFS is implementing this final rule primarily to ensure that an adequate number of Atlantic tunas longline LAPs are available to match the available number of swordfish and shark LAPs because all three permits are needed to retain swordfish (other than with the swordfish handgear LAP) and to fish for tunas with PLL gear. This rule is also being implemented so that the HMS regulations better reflect the operational constraints associated with the Atlantic tunas longline permit issuance system. For example, because the tuna permit issuance system lacks a ''no vessel'' status, some people without a vessel were unable to renew their Atlantic tunas longline LAP within one year and they lost their eligibility for the permit. Also, some squid trawl vessel owners issued incidental swordfish permits indicated that they misunderstood the requirement, which specifies that they must also be issued an Atlantic tunas longline LAP and a shark LAP in order to retain swordfish. These vessel owners inadvertently failed to renew their tuna permit within one year of expiration, lost their eligibility, and have since had to discard incidentally-caught swordfish. NMFS is aware that this rule could potentially provide an economic benefit to former permit holders who are reissued the permit. However, all of the individuals affected by this rule originally qualified for the permit, or obtained it through transfer. NMFS will not be issuing new permits to everyone who submits an application. The Atlantic tunas longline permit remains a limited access permit. Unless a person is the most recent

Atlantic tunas longline permit holder of record, the permit can still only be obtained through transfer.

Comment 17: I oppose the proposed rule. It would reward individuals that have not helped the swordfish fishery at all. Their permits are being carried solely as an investment. Anyone who owns a permit knows that people are looking to buy permits. This proposed rule offers an opportunity for these individuals to sell their newly reissued permits. Many former permit holders will sell the Atlantic tunas longline LAP for economic benefit to south Florida vessel owners that want to fish with buoy gear.

Response: The final rule will allow former Atlantic tunas longline permit holders to renew this permit if it has been expired for more than one year. They will then become legally eligible to retain swordfish, provided that they have also been issued a shark and swordfish LAP (other than handgear) and are compliant with all other regulations. Because these former permit holders were previously not allowed to renew their expired Atlantic tunas longline LAPs, they were not able to retain swordfish or ''help'' the swordfish fishery. It is unlikely that these former permit holders allowed their Atlantic tunas longline permit to expire for more than one year if they were holding onto it for investment purposes, as the permits would no longer be renewable. Many former permit holders have indicated that they misunderstood the requirement which specifies that an Atlantic tunas longline LAP is necessary to retain swordfish (except with a swordfish handgear LAP), or that they were not able to be issued a tunas longline LAP because they did not possess a vessel, or were confused by the permit renewal procedures. Under this final rule, if a person whose Atlantic tunas longline LAP has been expired for more than one year possesses a vessel, applies for the permit, has been issued both swordfish and shark LAPs (other than swordfish handgear), and meets all other permit renewal requirements, they will be reissued a new permit. The permit could then be used to fish, or it could be sold and transferred. Transferability is an important feature of all HMS LAPs. If some of the newly reissued permits are transferred to people who are then able to fish for swordfish as a result of this final rule, it would be beneficial to the United States for achieving the domestic swordfish quota. It is possible that some transferred permits could be used to participate in the buoy gear fishery in south Florida. The buoy gear fishery is currently authorized and managed under the Consolidated HMS Fishery Management Plan (Consolidated HMS FMP). NMFS monitors, and will continue to monitor, the buoy gear fishery to determine if changes to the regulations governing this fishery are warranted.

Comment 18: The United States will not catch its swordfish quota if the newly reissued permits are not actually used to catch fish. The final rule should contain a ''sunset clause'' which specifies that if a newly reissued permit is not used to fish by a certain date, then it would be revoked. The United States needs to put boats on the water. Therefore, the recipients must either use the permit or lose the permit.

Response: NMFS is not imposing any additional restrictions, such as a ''use or lose'' date, upon newly reissued Atlantic tunas longline LAPs. The establishment of restrictive criteria to retain the permit, or to retain eligibility for the permit, would run counter to the intent of this rulemaking, which is primarily to ensure that the number of available Atlantic tunas longline LAPs is sufficient to match the number of available swordfish and shark LAPs. There are many instances when a person may not be able to fish. Requiring a person to fish with a newly reissued permit within a certain period of time, or else risk losing the permit, could compromise their safety at sea and would limit their business's planning and decision-making flexibility. As stated in the responses to comments 9 and 10, the Agency may consider alternatives to address latent fishing effort in a future rulemaking.

Comment 19: NMFS should not allow any newly reissued permits to be sold or transferred.

Response: NMFS believes that the regulations governing the sale and transfer of all HMS LAPs should be consistent for administrative purposes and to minimize confusion, especially because swordfish, shark, and Atlantic tunas longline LAPs are often transferred together as a three-permit package. It would be confusing for the public and difficult for NMFS to administer if only certain Atlantic tunas longline LAPs were transferrable, while others were not. Furthermore, permit transferability is an important feature of HMS LAPs because it allows permit buyers and sellers to determine how permits are utilized, rather than the federal government. Finally, the establishment of restrictive criteria applying only to the transfer of certain Atlantic tunas longline LAPs would run counter to the intent of this rulemaking, which is primarily to ensure that the number of available Atlantic tunas longline LAPs is sufficient to match the number of available swordfish and shark LAPs.

Comment 20: NMFS should create a ''pool'' of unused or revoked permits that could be issued to people who want to fish. There needs to be more HMS permits available so that people who want to buy a boat and fish can more easily obtain a permit.

Response: NMFS does not currently intend to revoke latent HMS LAPs, or to serve as a broker for revoked or latent permits. As discussed in the response to Comment 5, there are currently a large number of latent or inactive permits in the HMS PLL fishery. All of these permits are transferrable, so NMFS encourages anyone interested in participating in an HMS limited access fishery to make the appropriate contacts and obtain the needed permits.

Comment 21: NMFS should allow for the leasing and chartering of HMS permits to foreign vessels. This would allow the newly reissued Atlantic tunas longline LAPs permits to be used for fishing on the high seas.

Response: This comment is beyond the scope of this rulemaking, however NMFS may consider the recommendation in a future rulemaking.

Comment 22: I support the proposed action, but it should only be considered a first step. Is this the entire extent of the permit revisions that NMFS is considering? NMFS should allow all lapsed swordfish, shark, and tuna permits to be reinstated. The United States needs more boats on the water catching fish. Many people lost their permits either through attrition, or because they were confused by the renewal process. NMFS should address the entire issue by reissuing all expired shark and swordfish permits. Does NMFS plan to reinstate other lapsed HMS permits?

Response: NMFS does not presently intend to reinstate other lapsed HMS permits. This final rule only affects lapsed Atlantic tunas longline LAPs because the situation regarding these permits is unique. The operational constraints of the online renewal system for this permit prevented some otherwise qualified permit holders from renewing their permit because they did not own a vessel. Also, several squid trawl vessel owners indicated that they misunderstood they needed an Atlantic tunas longline LAP and a shark LAP to retain incidentally-caught swordfish, even though they were issued an incidental swordfish permit. Finally, the renewal reminder and permit application process for Atlantic tunas longline LAPs is different from other HMS LAPs. NMFS recognizes these

differences and realizes that some former permit holders may not have been able to renew their permit, or were confused by the regulations or renewal process. This final rule provides an immediate remedy to these readily identifiable problems. NMFS may also consider other, more comprehensive, permit-related issues in a future rulemaking.

Comment 23: I oppose the proposed action. There are already enough HMS permits available now.

Response: There are many latent HMS permits, including approximately 131 complete three-permit PLL ''packages.'' However, some people are issued only one or two of the three required permits needed to retain swordfish (other than with handgear), or to fish for tunas with PLL gear. If these people were to complete their three-permit package by obtaining an Atlantic tunas longline LAP through transfer, the transferor could then have an incomplete permit package. This is the permit imbalance that NMFS is seeking to address. This final rule is less focused on reissuing more Atlantic tunas longline LAPs, and more focused on ensuring that currently issued swordfish permits are valid (because they are held in conjunction with the other two permits). It will help to slow the rate of attrition in the PLL fishery without increasing the number of PLL vessels above the number of permit holders issued swordfish LAPs.

Shark Dealer Workshops

Comment 24: Are shark dealer permits issued to individuals or to entities?

Response: Shark dealer permits may be issued to both individuals and corporate entities.

Comment 25: Does the final rule change the HMS regulations at § 635.28(b)(3) which state that, when the fishery for a shark species group in a particular region is closed, shark dealers in that region may not purchase or receive sharks of that species group from a vessel issued an Atlantic shark LAP?

Response: No. This final rule primarily modifies Atlantic Shark Identification Workshop requirements at § 635.8(b) for Atlantic shark dealers that have more than one place of business listed on their shark dealer permit. Also, this final rule implements a requirement which specifies that trucks or other conveyances of a dealer's place of business must possess a copy of a valid Atlantic Shark Identification Workshop certificate (dealer or proxy) issued to a place of business covered by the dealer permit.

Comment 26: The Atlantic Shark Identification Workshops use shark ''logs'' and the second dorsal and anal fins to identify sharks. NMFS should allow the workshop instructor to have access to prohibited species, different life history stages, and different product forms to further improve dealer identification skills.

Response: NMFS will examine the feasibility and necessity of providing these items at future workshops.

Changes from the Proposed Rule

There are no changes from the proposed rule.

Classification

The Assistant Administrator, NMFS, has determined that this final rule is necessary for the conservation and management of the HMS fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

A Final Regulatory Flexibility Analysis (FRFA) was prepared. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses. The full FRFA is available from NMFS (see **ADDRESSES**). A summary of the information presented in the FRFA follows.

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires the Agency to state the objective and need for the rule. As stated in the proposed rule, the objective of this final rule regarding the renewal of expired Atlantic tunas longline LAPs is to help ensure that an adequate number of complementary Atlantic tunas longline LAPs are available for swordfish and shark LAP holders to fish legally for Atlantic swordfish and tunas with PLL gear. Consistent with the Magnuson-Stevens Act and ATCA, this action is also intended to help provide a reasonable opportunity for U.S. vessels to harvest quota allocations recommended by ICCAT, in recognition of the improved stock status of North Atlantic swordfish (B = 0.99Bmsy).

The amendment regarding attendance requirements at Atlantic Shark Identification Workshops is necessary because some shark dealers do not receive shark products at all of the locations listed on their permit, thus making it unnecessary to require workshop certification for those locations where sharks are not received. For technical and administrative reasons, it is not currently feasible for NMFS to list only locations on the shark dealer permit where sharks are first received, if a dealer also has other locations where other species are received. This final rule requires dealers to submit an Atlantic Shark Identification Workshop certificate (dealer or proxy) for each place of business listed on the shark dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, rather than from each location listed on their dealer permit. This will eliminate the need for a dealer to send a proxy to a workshop to obtain a certificate for a business location that does not first receive Atlantic shark products for the sole purpose of renewing their Atlantic shark dealer permit. The requirement to possess, and make available for inspection, an Atlantic Shark Identification Workshop certificate is similarly only required at locations listed on the dealer permit where sharks are first received. Additionally, this final rule requires that extensions of a dealer's business, such as trucks or other conveyances, must possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. This will allow trucks or other conveyances of a NMFS-certified place of business to be immediately identified as being eligible to first receive Atlantic sharks.

Section 604(a)(2) of the RFA requires the Agency to summarize significant issues raised by the public comments in response to the IRFA, summarize the assessment of the Agency of such issues, and state any changes made in the rule as a result of such comments. NMFS received several comments on the proposed rule during the public comment period. A summary of the comments and the Agency's responses are included in the preamble of this final rule. NMFS did not receive any comments specific to the IRFA, but did receive a limited number of comments related to economic issues and concerns. These comments are responded to with the other comments (see Comments 11, 16, and 17). The comments on economic concerns are also summarized here.

A comment was received indicating that the preferred alternative for the renewal of Atlantic tunas longline LAPs would allow some *Illex* squid trawlers to renew their Atlantic tunas longline permit again, thus making their incidental swordfish permit valid. This would allow them to retain incidentally-caught swordfish and provide a significant economic benefit to their

business. NMFS concurs with this assessment that the final action could provide an economic benefit to some former permit holders, and reduce or eliminate swordfish regulatory discards by allowing squid trawlers to retain incidentally-caught swordfish.

Another commenter stated that the preferred alternative would allow people who did not follow the regulations regarding permit renewal to obtain a new Atlantic tunas longline LAP, whereas some fishermen had to pay for the permit. In response, NMFS stated that the intent of the final rule is to help ensure that the number of available Atlantic tunas longline LAPs is sufficient to match the number of available swordfish and shark LAPs. Furthermore, all of the individuals affected by this rule either originally qualified for an Atlantic tunas longline LAP, or obtained it through transfer. NMFS will not be issuing new permits to everyone who submits an application. The Atlantic tunas longline permit remains a limited access permit. Unless a person is the most recent Atlantic tunas longline permit holder of record, the permit can only be obtained through transfer.

Finally, NMFS received a comment stating that the preferred alternative provides an opportunity for individuals to sell their newly reissued Atlantic tunas longline LAP for their own economic benefit, possibly to south Florida vessel owners that want to fish with buoy gear. In response, NMFS believes it would be beneficial for achieving the domestic north Atlantic swordfish quota if some people who want to fish for swordfish are able to do so legally. Some of the transferred permits could be used to participate in the buoy gear fishery in south Florida. NMFS will continue to monitor the buoy gear fishery to determine if additional regulations are needed.

No changes to the final rule were made as a result of these comments.

Section 604(a)(3) of the RFA requires the Agency to describe and estimate the number of small entities to which the final rule will apply. NMFS considers all commercial permit holders to be small entities as reflected in the Small Business Administration's (SBA) size standards for defining a small business entity (gross receipts less than $4.0 million). The final action to modify permit renewal requirements for Atlantic tunas longline LAPs would most immediately impact approximately 40 vessel owners that are the most recent permit holders of record, but are not eligible to renew that permit because it has been expired for more than one year. Potentially, 245 vessel owners that are concurrently issued Atlantic tunas longline, swordfish, and shark LAPs could be affected by this action if, in the future, they fail to renew their Atlantic tunas longline LAP within one year of expiration.

Based upon information obtained from the Southeast Regional Office permits shop, as of May 19, 2008, NMFS had issued 142 Atlantic shark dealer permits (not counting Atlantic shark dealers located in Pacific states (5 in CA, and 2 in HI)). Of these, 41 individual dealers had multiple locations (ranging from two to eight locations) listed on their permit. Eighty-four of these shark dealers had been issued a workshop certificate for at least one location, and 58 shark dealers had not been issued any workshop certificates for any locations. Approximately 8 of the 41 dealers with multiple locations had been issued at least one certificate, but not certificates for all of the locations listed on their permit. Thus, under the current regulations, these 8 dealers would not be eligible to renew their shark dealer permit. The 8 Atlantic shark dealers who have not been issued proxy certificates for all of their locations are most immediately affected by this final rule because, as a result of this rule, they would be eligible to renew their shark dealer permit by submitting workshop certificates only for locations that actually receive shark products. Potentially, any of the 41 Atlantic shark dealers with multiple locations listed on their permit could also be impacted by this action. All of the aforementioned businesses are considered small business entities according to the Small Business Administration's standard for defining a small entity.

Section 604(a)(4) of the RFA requires NMFS to describe the projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities that will be subject to the requirements of the report or record. This final rule does not contain any new reporting, recordkeeping, or other compliance requirements that will require new Paperwork Reduction Act filings. Atlantic shark dealers will need to comply with a new requirement to possess a copy of their Atlantic Shark Identification Workshop certificate (dealer or proxy) in their trucks or other conveyances which serve as extensions of a dealer's place of business. This will help to facilitate the identification of trucks or other conveyances as extensions of a NMFS-certified place of business which is eligible to receive Atlantic sharks.

Section 604(a)(5) of the RFA requires the Agency to describe the steps taken to minimize the significant economic impact on small entities consistent with the stated objectives of the applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected. Additionally, the RFA (5 U.S.C. 603(c)(1) through (4)) lists four general categories of ''significant'' alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and
4. Exemptions from coverage of the rule for small entities.

As noted earlier, NMFS considers all commercial permit holders to be small entities. In order to meet the objectives of this final rule, consistent with the Magnuson-Stevens Act, ATCA, and the ESA, NMFS cannot exempt small entities or change the compliance requirements only for small entities. Thus, there are no alternatives that fall under the first and fourth categories described above.

With regards to category two, none of the alternatives considered would result in additional reporting requirements. The selected alternative for Atlantic Shark Identification Workshops requires shark dealers to possess a copy of their workshop certificate (dealer or proxy) in trucks or other conveyances which serve as extensions of a dealers' place of business. The only compliance requirement involves making a photocopy of the workshop certificate, and possessing that copy inside dealer's trucks or conveyances. This requirement will facilitate the identification of vehicles which serve as extensions of a NMFS-certified place of business that is eligible to receive Atlantic sharks.

Category three emphasizes the use of performance standards rather than design standards in the development of alternatives. None of the alternatives require compliance with standards, so there are no alternatives that fall under this category.

NMFS considered two alternatives to address the renewal of Atlantic tunas

longline LAPs that have been expired for more than one year, and two alternatives to address Atlantic Shark Identification Workshop attendance requirements. As described below, NMFS has provided justification for the selection of the preferred alternatives to achieve the desired objectives of this rulemaking.

Alternative 1 for the renewal of Atlantic tunas longline LAPs (alternative 2.1.1 in the FRFA) is the no action, or status quo, alternative. Current HMS regulations at 50 CFR 635.4(m)(2) specify that only persons holding a non-expired Atlantic tunas longline LAP in the preceding year are eligible to renew that permit. Under alternative 1, there would be no change in the existing regulations and, as such, no change in the current baseline economic impacts. However, the situation regarding the renewal of Atlantic tunas longline LAPs is unique. Until September 2007, the procedures for renewing Atlantic tunas longline LAPs were implemented differently than for swordfish and shark LAPs. Since September 2007, the permit renewal regulations have been administered similarly. Thus, the no action alternative would continue any existing economic impacts, but those impacts have only been in existence since September 2007.

The no action alternative was not selected because it has the largest associated adverse economic impacts. Without an Atlantic tunas longline LAP, a permit holder is prohibited from fishing for tunas with PLL gear and from retaining swordfish, even if the vessel has been issued a directed or incidental swordfish permit. As many as 40 commercial fishing vessels that previously qualified for LAPs to participate in the PLL fishery would continue to be prohibited from participating in the fishery, harvesting the U.S. swordfish quota, and creating jobs. Thus a failure to take action would prevent the realization of economic gains associated with increased swordfish fishing.

Under the selected alternative (preferred alternative 2.1.2 in the FRFA), NMFS would remove the one-year renewal timeframe for Atlantic tunas longline LAPs. This would allow the Agency to reissue the permit to the most recent permit holder of record, even if the Atlantic tunas longline LAP had not been renewed within one year of expiration, provided that they were issued swordfish and shark LAPs and all other requirements for permit renewal were met. The requirement to possess swordfish and shark LAPs in order to obtain an Atlantic tunas longline LAP would remain in effect. Also, current regulations which specify that only persons holding non-expired swordfish and shark LAPs in the preceding year are eligible to renew those permits would remain in effect.

Relative to the no action alternative, removing the one-year renewal timeframe for Atlantic tunas longline LAPs is projected to potentially increase net and gross revenues for approximately 40 vessel owners who are otherwise qualified to fish for swordfish and tunas with PLL gear, except that they are currently ineligible to renew their Atlantic tunas longline LAP. Overall fleet-wide gross economic benefits could potentially increase as much as $7,842,280 under this alternative, relative to the baseline. Also, an overall fleet-wide increase in net revenues (profits) of approximately $200,000 to $721,839 could occur, distributed among the 40 vessels potentially impacted by this alternative. Under this alternative, each individual vessel owner could see an increase in annual net revenues ranging from $0 to potentially over $100,000, depending upon the profitability of their business.

Another important benefit associated with the selected alternative is that it could help to maintain the domestic swordfish and tuna PLL fishery at historical levels by allowing 35 – 40 vessels to participate in the fishery that, since September 2007, have not been permitted to do so. All of the potentially affected vessels/permit holders originally qualified for the longline fishery in 1999, or received the necessary permits through transfer. Thus, relative to August 2007 and years prior, there would be no change in historical fishing practices, fishing effort, or economic impact. However, relative to September 2007 and beyond, potential economic benefits to the affected permit holders would result. The selected alternative could also help the United States retain its historic swordfish quota allocation at ICCAT and sustain employment opportunities in the domestic PLL fleet. Maintaining a viable domestic PLL fishery is important because it could help to demonstrate that a well-managed, environmentally-sound fishery can also be profitable. This could eventually provide an incentive for other nations to adopt similar management measures that are currently required of the U.S. PLL fleet such as circle hooks, careful release gears, and other measures described in the response to Comment 1 above.

A related potential impact associated with both alternatives is that changes to the value of an Atlantic tunas longline LAP could occur by changing the supply of available permits. The no action alternative would likely reduce the supply of available permits over time, thereby increasing the value of the permit. The selected alternative could initially increase the supply relative to the period since September 2007, and thereby reduce the value. These impacts would be either positive or negative for small business entities, depending upon whether the Atlantic tunas longline LAP was being bought or sold.

There are no other significant alternatives for the renewal of Atlantic tunas longline permits, except for the two aforementioned alternatives. The selected alternative achieves the objectives of this rulemaking, provides benefits to small entities, and has few associated impacts because the regulatory changes will be more representative of the actual operational capabilities of the Atlantic tunas longline LAP renewal system. The selected alternative will help to ensure that an adequate number of Atlantic tunas longline LAPs are available to match the available number of swordfish and shark LAPs, which is important because all three permits are needed to retain swordfish (other than with the swordfish handgear LAP) and to fish for tunas with PLL gear.

Alternative 1 for attendance requirements at Atlantic Shark Identification Workshops (alternative 2.2.1 in the FRFA) is the no action alternative. All dealers intending to renew their Atlantic shark dealer permit would continue to be required to become certified at an Atlantic Shark Identification Workshop, or to have their proxies certified. Dealers with multiple locations listed on their permit would receive certificates for each location listed on their permit. Dealers opting not to become certified and to send a proxy would continue to be required to send a proxy for each location listed on their Atlantic shark dealer permit. Atlantic shark dealers would not be allowed to renew their permit without submitting either a dealer or proxy certificate for each location listed on their Atlantic shark dealer permit. Additionally, Atlantic shark dealers could not receive shark products at a location that does not have a valid workshop certificate for that address on the premises.

There are approximately 41 Atlantic shark dealers with more than one location listed on their permit. These dealers have the choice of becoming certified themselves, or sending a proxy to the workshops for each location listed on a permit. As described in the Consolidated HMS FMP and its final

rule (71 FR 58058, October 2, 2006), on an individual basis the costs incurred by dealers and/or proxies are those related to travel and the time required to attend the workshops, which result in out of pocket expenses and lost opportunity costs. Travel costs to attend these workshops vary, depending upon the distance that must be traveled. Daily opportunity costs for dealers are not currently known. Therefore, it is not possible to precisely quantify the costs associated with the no action alternative. At a minimum, the costs for a dealer attending a workshop include travel expenses and at least one day of lost opportunity costs. At a maximum, for dealers opting to send proxies for each location listed on their permit, the costs could include travel expenses for several proxies and several days of lost opportunity costs.

The selected alternative for Atlantic Shark Identification Workshop attendance requirements (preferred alternative 2.2.2 in the FRFA) specifies that, upon permit renewal, a dealer must submit an Atlantic Shark Identification Workshop certificate (dealer or proxy) for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, rather than from each location listed on their dealer permit. The requirement to possess, and make available for inspection, an Atlantic Shark Identification Workshop certificate is similarly only required at locations listed on the dealer permit where sharks are first received. This eliminates the need for a dealer to send a proxy to a workshop to obtain a certificate for a business location that does not first receive Atlantic shark products.

As mentioned above, there are currently 41 shark dealers with multiple locations listed on their permit which could be impacted by the proposed action. Of these, 8 Atlantic shark dealers have not currently been issued Atlantic Shark Identification Workshop certificates for all of the locations listed on their permit.

NMFS estimates that the total costs (travel costs and opportunity costs) associated with the selected alternative for Atlantic Shark Identification Workshop attendance requirements will be lower than those associated with the no action alternative, but only for Atlantic shark dealers that: (1) opt to send a proxy (or proxies) to the workshop; (2) have multiple locations listed on their permit; and, (3) only first receive shark products at some of the locations listed on their Atlantic shark dealer permit. Costs will remain unchanged for shark dealers that do not meet these three criteria. For dealers that meet these criteria, the costs will be reduced by an amount equivalent to sending proxies for each location listed on the permit that do not first receive shark products. For example, if a dealer chooses to send proxies and has four locations listed on the permit, but only two of those locations first receive shark products, the costs would be reduced by the amount equivalent to sending two proxies to an Atlantic Shark Identification Workshop.

The selected alternative also requires that extensions of a dealer's business, such as trucks or other conveyances, must possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. This requirement allows trucks or other conveyances to be immediately identified as extensions of a NMFS-certified place of business which is eligible to receive Atlantic sharks. NMFS anticipates that this requirement will have minimal costs but will improve the enforceability of existing Atlantic shark regulations.

There are no other significant alternatives for Atlantic Shark Identification Workshop attendance requirements except for these two alternatives. Administratively it is not currently feasible, for both technical and programmatic reasons, to modify the NMFS permits database to accommodate dealers having different locations where they receive different species. The selected alternative requires dealers to display an Atlantic Shark Identification Workshop certificate at all locations where sharks are first received. Therefore, it achieves the objective of improving the identification and reporting of shark species, while simultaneously lessening impacts on dealers. The selected alternative will also improve the enforceability of existing Atlantic shark regulations by requiring extensions of a dealer's business, such as trucks or other conveyances, to possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Management, Penalties, Reporting and recordkeeping requirements.

Dated: June 27, 2008.

John Oliver

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.4, paragraph (m)(2) is revised to read as follows:

§ 635.4 Permits and fees.

* * * * *

(m) * * *

(2) *Shark and swordfish LAPs.* The owner of a vessel of the U.S. that fishes for, possesses, lands or sells shark or swordfish from the management unit, or that takes or possesses such shark or swordfish as incidental catch, must have the applicable limited access permit(s) issued pursuant to the requirements in paragraphs (e) and (f) of this section. Only persons holding non-expired shark and swordfish limited access permit(s) in the preceding year are eligible to renew those limited access permit(s). Transferors may not renew limited access permits that have been transferred according to the procedures in paragraph (l) of this section.

■ 3. In § 635.8, paragraphs (b)(4), (b)(5), and (c)(4) are revised to read as follows:

§ 635.8 Workshops.

* * * * *

(b) * * *

(4) Dealers may send a proxy to the Atlantic shark identification workshops. If a dealer opts to send a proxy, the dealer must designate at least one proxy from each place of business listed on the dealer permit, issued pursuant to § 635.4(g)(2), which first receives Atlantic shark by way of purchase, barter, or trade. The proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and fills out dealer reports as required under § 635.5. Only one certificate will be issued to each proxy. If a proxy is no longer employed by a place of business covered by the dealer's permit, the dealer or another proxy must be certified as having completed a workshop pursuant to this section. At least one individual from each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade must possess a valid Atlantic shark identification workshop certificate.

(5) A Federal Atlantic shark dealer issued or required to be issued a shark dealer permit pursuant to § 635.4(g)(2) must possess and make available for

inspection a valid Atlantic shark identification workshop certificate at each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade. For the purposes of this part, trucks or other conveyances of a dealer's place of business are considered to be extensions of a dealer's place of business and must possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. A copy of this certificate issued to the dealer or proxy must be included in the dealer's application package to obtain or renew a shark dealer permit. If multiple businesses are authorized to receive Atlantic sharks under the dealer's permit, a copy of the workshop certificate for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade must be included in the shark dealer permit renewal application package.

(c) * * *

(4) An Atlantic shark dealer may not first receive, purchase, trade, or barter for Atlantic shark without a valid Atlantic shark identification workshop certificate. A valid Atlantic shark identification workshop certificate must be maintained on the premises of each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade. An Atlantic shark dealer may not renew a Federal dealer permit issued pursuant to § 635.4(g)(2) unless a valid Atlantic shark identification workshop certificate has been submitted with the permit renewal application. If the dealer is not certified, the dealer must submit a copy of a proxy certificate for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade.

* * * * *

■ 4. In § 635.21, paragraph (e)(4)(iii) is revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(e) * * *

(4) * * *

(iii) A person aboard a vessel issued or required to be issued a valid directed handgear LAP for Atlantic swordfish may not fish for swordfish with any gear other than handgear. A swordfish will be deemed to have been harvested by longline when the fish is on board or offloaded from a vessel using or having on board longline gear. Only vessels that have been issued, or that are required to have been issued, a valid directed or handgear swordfish LAP under this part may utilize or possess buoy gear. Vessels utilizing buoy gear may not possess or deploy more than 35 floatation devices, and may not deploy more than 35 individual buoy gears per vessel. Buoy gear must be constructed and deployed so that the hooks and/or gangions are attached to the vertical portion of the mainline. Floatation devices may be attached to one but not both ends of the mainline, and no hooks or gangions may be attached to any floatation device or horizontal portion of the mainline. If more than one floatation device is attached to a buoy gear, no hook or gangion may be attached to the mainline between them. Individual buoy gears may not be linked, clipped, or connected together in any way. Buoy gears must be released and retrieved by hand. All deployed buoy gear must have some type of monitoring equipment affixed to it including, but not limited to, radar reflectors, beeper devices, lights, or reflective tape. If only reflective tape is affixed, the vessel deploying the buoy gear must possess on board an operable spotlight capable of illuminating deployed floatation devices. If a gear monitoring device is positively buoyant, and rigged to be attached to a fishing gear, it is included in the 35 floatation device vessel limit and must be marked appropriately.

* * * * *

■ 5. In § 635.71, paragraph (d)(14) is revised to read as follows:

§ 635.71 Prohibitions.

* * * * *

(d) * * *

(14) Receive, purchase, trade, or barter for Atlantic shark without making available for inspection, at each of the dealer's places of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, a valid Atlantic shark identification workshop certificate issued by NMFS in violation of § 635.8(b), except that trucks or other conveyances of the business must possess a copy of such certificate.

* * * * *

[FR Doc. E8–15195 Filed 7–2–08; 8:45 am]

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Proposed Rules

Federal Register
Vol. 73, No. 129
Thursday, July 3, 2008

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 253

[FNS–2007–0042]

RIN 0584–AD12

Food Distribution Program on Indian Reservations: Resource Limits and Exclusions, and Extended Certification Periods

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations for the Food Distribution Program on Indian Reservations (FDPIR). The changes are intended to improve program service, ensure consistency between FDPIR and the Food Stamp Program, and respond to concerns expressed by the National Association of Food Distribution Programs on Indian Reservations (NAFDPIR) that the current FDPIR resource limit was insufficient for the target population and served as a barrier to participation. The proposed rule would increase the maximum level of allowable resources to the same level permitted under the Food Stamp Program (including annual adjustments for inflation in accordance with Section 4104 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234)), allow a resource exclusion for the first $1,500 of the value of one pre-paid funeral arrangement per household member, and allow households in which all members are elderly and/or disabled to be certified for up to 24 months. The rule would also implement Section 4107 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), which established a resource limit of $3,000 for Food Stamp Program households with a disabled member.

DATES: To be assured of consideration, comments must be received on or before September 2, 2008.

ADDRESSES: The Food and Nutrition Service (FNS) invites interested persons to submit comments on this proposed rule. You may submit comments identified by Regulatory Identifier Number (RIN) 0584–AD12, by any of the following methods:

- Fax: Submit comments by facsimile transmission to (703) 305–2420.
- Disk or CD–ROM: Submit comments on disk to Lillie F. Ragan, Assistant Branch Chief, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302–1594.
- Mail: Send comments to Lillie F. Ragan at the above address.
- Hand Delivery or Courier: Deliver comments to the above address.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Food and Nutrition Service'' from the agency drop-down menu, and click ''Submit.'' In the Docket ID column of the search results select ''FNS–2007–0042'' to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. The Department will make the comments publicly available on the Internet via *http://www.regulations.gov*.

All written submissions will be available for public inspection at the address above during regular business hours (8:30 a.m. to 5:30 p.m.), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan at the above address, or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Procedural Matters
III. Background and Discussion of the Proposed Rule

I. Public Comment Procedures

Your written comments on this proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason(s) for any change you recommend or proposal(s) you oppose. Where possible, you should reference the specific section or paragraph of the proposal you are addressing. Comments received after the close of the comment period (see **DATES**) will not be considered or included in the Administrative Record for the final rule.

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these regulations easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (e.g., grouping and order of sections, use of headings, and paragraphing) make it clearer or less clear?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the preamble section entitled ''Background and Discussion of the Proposed Rule'' helpful in understanding the rule? How could this description be more helpful in making the rule easier to understand?

II. Procedural Matters

A. Executive Order 12866

This proposed rule has been determined to be significant, and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Impact Analysis

1. Need for Action

This action is needed to ensure that regulations pertaining to certification period assignments for elderly and/or disabled households and resource standards are consistent between FDPIR and the Food Stamp Program and to reflect provisions contained in the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), which established a resource limit of $3,000 for Food Stamp Program households with a

disabled member, and in Section 4104 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234), which established an annual inflation adjustment to the Food Stamp Program resource limits starting in fiscal year 2009.

2. Benefits

This rule would amend FDPIR regulations by aligning several provisions with their counterparts in the Food Stamp Program. These regulatory changes are designed to help ensure that FDPIR benefits are provided to low-income households living on or near Indian reservations that are in need of nutrition assistance. Because FDPIR regulations regarding resource limits and exclusions would be altered by this rule, participation could potentially increase, thus expanding access to those eligible for the program and increasing nutritional benefits to the targeted population.

FNS has projected the impact of each proposed change on FDPIR participation. However, we are unable to determine the total number of individuals that might be added as a result of this rule. An individual might benefit from more than one provision and the effect of the overlap could not be determined.

3. Cost

This action is not expected to significantly increase costs of State and local agencies, or their commercial contractors, in using donated foods. The combined impact of the proposed changes in this rulemaking is projected to increase program costs by $90,000 in FY 2009 and $473,000 over a five-year period (FY 2009–2013). These increased costs are attributable to potential increases in participation.

C. Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). The Under Secretary for Food, Nutrition and Consumer Services has certified that this action will not have a significant impact on a substantial number of small entities. While program participants and Indian Tribal Organizations (ITOs) and State agencies that administer the FDPIR and the Food Distribution Program for Indian Households in Oklahoma (FDPIHO) will be affected by this rulemaking, the economic effect will not be significant.

D. Public Law 104–4

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

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

E. Executive Order 12372

The program addressed in this action is listed in the Catalog of Federal Domestic Assistance under No. 10.567. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice published at 48 FR 29114, June 24, 1983, the donation of foods in such programs is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

F. Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

1. Prior Consultation With Tribal/State Officials

The programs affected by the regulatory proposals in this rule are all Tribal or State-administered, federally funded programs. FNS' national headquarters and regional offices have formal and informal discussions with State officials on an ongoing basis regarding program issues relating to the distribution of donated foods. FNS meets annually with the National Association of Food Distribution Programs on Indian Reservations (NAFDPIR), a national group of State agencies, to discuss issues relating to food distribution.

2. Nature of Concerns and the Need To Issue This Rule

This rule is intended to provide consistency between FDPIR and the Food Stamp Program in regard to certification period assignments for elderly and/or disabled households and resource standards. The rule was prompted, in part, by a resolution passed by NAFDPIR in fiscal year 2000. NAFDPIR expressed concern that the current FDPIR resource limit was insufficient for the target population and served as a barrier to participation. The rule was also prompted, in part, by a provision contained in the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), enacted on May 13, 2002. Section 4107 of Public Law 107–171 established a Food Stamp Program resource limit of $3,000 for households with a disabled member. Section 4104 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234), enacted on May 22, 2008, established an annual inflation factor adjustment to the Food Stamp Program resource limits. This provision is effective October 1, 2008. The other regulatory provisions proposed in this rule are also consistent with Food Stamp Program provisions.

3. Extent to Which We Meet Those Concerns

The Department has considered the impact of the proposed rule on State agencies. The Department does not expect the provisions of this rule to conflict with any State or local law, regulations or policies. The overall effect of this rule is to ensure that low-income households living on or near Indian reservations receive nutrition assistance. This rule would ensure consistency between FDPIR and the Food Stamp Program in regard to certification period assignments for elderly and/or disabled households and resource standards.

G. Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Although the provisions of this rule are not expected to conflict with any State or local law, regulations, or policies, the rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full

implementation. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions all applicable administrative procedures must be exhausted.

H. Civil Rights Impact Analysis

The Department has reviewed this rule in accordance with the Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, the Department has determined that this rule will not in any way limit or reduce the ability of participants to receive the benefits of donated foods in food distribution programs on the basis of an individual's or group's race, color, national origin, sex, age, political beliefs, religious creed, or disability. The Department found no factors that would negatively and disproportionately affect any group of individuals.

I. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; see 5 CFR part 1320) requires that OMB approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This proposed rule does not contain any new information collection requirements subject to review and approval by OMB.

J. E-Government Act Compliance

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

III. Background and Discussion of the Proposed Rule

The Department is proposing to amend the regulations for FDPIR at 7 CFR part 253. The changes would improve program service by: (1) Bringing the maximum level of allowable resources in line with the Food Stamp Program, including the establishment of a resource limit of $3,000 for households with a disabled member and an annual inflation adjustment to the resource limits starting in fiscal year 2009; (2) allowing a resource exclusion for the first $1,500 of the value of one pre-paid funeral arrangement per household member; and (3) allowing households in which all members are elderly and/or disabled to be certified for up to 24 months. These changes would also impact the operation of the Food Distribution Program for Indian Households in Oklahoma (FDPIHO), 7 CFR part 254, under which the eligibility and certification provisions of 7 CFR part 253 are adopted by reference at 7 CFR 254.5(a).

In the following discussion and regulatory text, the term ''State agency,'' as defined at 7 CFR 253.2, is used to include ITOs authorized to operate FDPIR and FDPIHO in accordance with 7 CFR parts 253 and 254. The term ''FDPIR'' is used in this proposed rule to refer collectively to FDPIR and FDPIHO.

A. Bring the Maximum Level of Allowable Resources in Line With the Food Stamp Program

This proposed rule would amend 7 CFR 253.6(d)(1) to bring the maximum level of allowable resources in FDPIR in line with those established for the Food Stamp Program under Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)). This would mean: (1) Establishing a new resource limit of $3,000 for households with a disabled member; (2) increasing the resource limit from $1,750 to $2,000 for households without elderly or disabled members; and (3) adjusting the above resource limits for inflation on an annual basis starting in fiscal year 2009, in accordance with Section 4104 of Public Law 110–234.

The Department is proposing an additional change to ensure consistency with the Food Stamp Program in the treatment of the resources of elderly households. The Food Stamp Program allows all households that include one or more elderly members to have a resource limit of $3,000. Under FDPIR, only households with two or more elderly members are allowed a resource limit of $3,000. This rule proposes to amend 7 CFR 253.6(d)(1) to allow one-person elderly households to have a resource limit of $3,000.

As indicated above, the resource limits would be adjusted for inflation on an annual basis starting in fiscal year 2009, in accordance with Section 4104 of Public Law 110–234. That section of the Act requires the annual adjustment of the Food Stamp Program resource standards to reflect changes in the Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding June. The Consumer Price Index is published by the Bureau of Labor Statistics of the U.S. Department of Labor. This rule proposes to amend 7 CFR 253.6(d) to ensure that the FDPIR resource standards reflect the annual adjustments made to the Food Stamp Program resources standards.

This rule also proposes to amend 7 CFR 253.7(c)(1), which contains the requirement that households report within 10 days when their countable resources exceed $1,750. This provision would be revised to specify that households must report within 10 days when their countable resources exceed the applicable maximum allowable limit. Also, this rule proposes to clarify 7 CFR 253.7(c)(1) to specify that the referenced 10-day period means 10 calendar days.

The current regulations for FDPIR do not define ''elderly'' or ''disabled''. Since FDPIR serves as an alternative nutrition assistance program to the Food Stamp Program, this rule proposes the adoption of the definitions used under the Food Stamp Program at 7 CFR 271.2. Accordingly, this rule proposes to amend 7 CFR 253.2 to include the definitions for elderly and disabled used under the Food Stamp Program.

B. Resource Exclusion for the First $1,500 of the Value of One Pre-Paid Funeral Arrangement per Household Member

The National Association of Food Distribution Programs on Indian Reservations has expressed concerns, in the form of a resolution passed by that Association, regarding households that are determined ineligible for FDPIR because of resources earmarked for funeral expenses. Families commonly commingle funds earmarked for funeral expenses with other household savings. Generally, there is no verifiable way to distinguish the funds held for funeral expenses from a household's general savings, which are considered available to the household for normal living expenses. To resolve this issue, Food Stamp Program regulations (7 CFR 273.8(e)(2)) allow a resource exclusion for ''the value of one bona fide funeral agreement per household member, provided that the agreement does not exceed $1,500 in equity value, in which event the value above $1,500 is counted.'' This provision allows each household member to ensure that the cost of their funeral will be covered, without jeopardizing the household's eligibility for food stamp benefits.

This rule proposes to amend the regulations at 7 CFR 253.6(d)(2)(i) to ensure consistent treatment of pre-paid funeral agreements between FDPIR and the Food Stamp Program by allowing a resource exclusion for the first $1,500 of

the equity value of one pre-paid funeral agreement per household member. A pre-paid funeral agreement is a pre-need agreement, or contract, with a bona fide funeral home, cemeterian, burial planner, etc., for funeral and/or burial services. As with other excluded resources, verification would not be required unless the information provided by the household is questionable (see 7 CFR 253.7(a)(6)(ii)).

C. Extend Certification Periods Up to 24 Months for Households in Which All Members Are Elderly or Disabled

This rule proposes to amend the regulations at 7 CFR 253.7(b)(2) to allow households in which all members are elderly and/or disabled to be certified for up to 24 months. Under current policy, certification periods are assigned according to the stability of a household's circumstances. Households consisting entirely of persons who only receive unearned income, such as Supplemental Security Income or Social Security payments, may be certified for up to 12 months, provided other household circumstances are expected to remain stable.

In accordance with Section 801 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 193–104), which amended Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)), the Department published a final rulemaking (65 FR 70134) on November 21, 2000, that implemented the above provision under the Food Stamp Program. This provision would also benefit the elderly and disabled participants of FDPIR. The elderly and/or disabled households often have stable incomes, and their other household circumstances change infrequently. Also, because of health and transportation problems, these households often have difficulty in attending face-to-face interviews.

Accordingly, this rule proposes to amend 7 CFR 253.7(b)(2) to state that FDPIR certification periods cannot exceed 12 months, except that households in which all adult members are elderly and/or disabled, as defined in the proposed definition at 7 CFR 253.2, may be certified for up to 24 months. This rule also proposes to require that the State agency must contact the household every 12 months. This means that if a household in which all adult members are elderly and/or disabled is certified for 24 months, the State agency would be required to have at least one direct contact with the household by the end of the first 12 months. The purpose of the contact is to determine: (1) That the household wishes to continue to participate in FDPIR; and (2) whether there are any changes in household circumstances that would warrant a redetermination of eligibility or a change in benefit level. In most cases, this contact could be made when the household receives its monthly distribution at the warehouse or tailgate site. However, some elderly and/or disabled households may rely on authorized representatives to pick up their commodities each month. In these instances, the State agency would be required to employ another method to contact the household. The State agency may use any method(s) it chooses for this contact, such as a telephone call or home visit. Contact with the authorized representative would not satisfy this requirement—a household member must be contacted. As with all actions taken by the State agency, the contact with the household must be documented in the case file to include the date of contact, method of contact, name of person contacted, whether the household wishes to continue to participate, and whether changes in household circumstances would warrant a redetermination of eligibility or a change in benefit level.

List of Subjects in 7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR part 253 is proposed to be amended as follows:

PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

1. The authority citation for 7 CFR part 253 is revised to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2036).

2. In § 253.2:

a. Remove paragraph designations (a) through (j) and list the definitions in alphabetical order.

b. Add new definitions entitled ''Disabled member'' and ''Elderly member'' in alphabetical order to read as follows:

§ 253.2 Definitions.

Disabled member means a member of a household who:

(1) Receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;

(2) Receives federally- or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act;

(3) Receives federally- or State-administered supplemental benefits under section 212(a) of Public Law 93–66;

(4) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(5) Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under title 38 of the United States Code;

(6) Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code;

(7) Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;

(8) Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38 of the United States Code and has a disability considered permanent under section 221(i) of the Social Security Act. ''Entitled'' as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them;

(9) Receives an annuity payment under: Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act; or

(10) Is a recipient of interim assistance benefits pending the receipt of Supplemented Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits provided that the eligibility to receive any of these benefits is based upon disability or blindness criteria

established by the State agency, which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR Part 416, Subpart I, Determining Disability and Blindness as defined in Title XVI).

Elderly member means a member of a household who is sixty years of age or older.

* * * * *

3. In § 253.6:

a. Amend paragraph (d)(1) by revising the second sentence;

b. Revise paragraph (d)(2)(i).

The revisions and addition read as follows:

§ 253.6 Eligibility of households.

* * * * *

(d) * * *

(1) * * * The household's maximum allowable resources shall not exceed the limits established for the Food Stamp Program.

(2) * * *

(i) The cash value of life insurance polices; pension funds, including funds in pension plans with interest penalties for early withdrawals, such as a Keogh plan or an Individual Retirement Account, as long as the funds remain in the pension plans; and the first $1,500 of the equity value of one bona fide pre-paid funeral agreement per household member.

* * * * *

4. In § 253.7:

a. Amend paragraph (b)(2)(iii) by removing the last sentence;

b. Add new paragraph (b)(2)(iv);

c. Amend paragraph (c)(1) by revising the third sentence;

The revision and addition read as follows:

§ 253.7 Certification of households.

* * * * *

(b) * * *

(2) * * *

(iv) In no event may a certification period exceed 12 months, except that households in which all adult members are elderly and/or disabled may be certified for up to 24 months. Households assigned certification periods that are longer than 12 months must be contacted by the State agency at least once every 12 months to determine if the household wishes to continue to participate in the program and whether there are any changes in household circumstances that would warrant a redetermination of eligibility or a change in benefit level. The State agency may use any method it chooses for this contact, including a face-to-face interview, telephone call or a home visit. Contact with the household's authorized representative would not satisfy this requirement; the State agency must contact a household member. The case file must document the contact with the household and include the date of contact, method of contact, name of person contacted, whether the household wishes to continue to participate, and whether changes in household circumstances would warrant a redetermination of eligibility or a change in benefit level.

* * * * *

(c) * * *

(1) * * * Households must also report within 10 calendar days when countable resources, which are identified in § 253.6(d)(2), exceed the maximum allowable limits as described at § 253.6(d)(1). * * *

* * * * *

Dated: June 25, 2008.

Nancy Montanez Johner,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. E8–15003 Filed 7–2–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2008–BT–STD–0006]

RIN 1904–AB47

Energy Efficiency Program for Consumer Products: Notice to Extend the Comment Period for Residential Central Air Conditioners and Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of comment period for the Framework Document and subsequent public meeting request from interested parties.

SUMMARY: On June 6, 2008, the Department of Energy (DOE) published a notice of public meeting and availability of the Framework Document to the **Federal Register** (73 FR 32243) to announce to the public that DOE was beginning its rulemaking activities for residential central air conditioners and heat pumps. The notice of availability of the Framework document announced the closing date for receiving public comments would be July 7, 2008. Meeting attendees collectively requested that the comment period be extended to allow additional time to understand the document and prepare written comments. The Department agrees to this extension of the comment period and will extend the close of the comment period to 4:30 p.m. (EDT) July 31, 2008. The Department does not foresee that this extension will affect the publication due dates for any subsequent documentation associated with this rule or any associated public meetings.

The Framework document is written to inform stakeholders and to facilitate explanation of DOE's rulemaking process. It details the analytical approach and identifies several issues on which DOE is particularly interested in receiving comment. The Department of Energy is initiating the rulemaking and data collection process to consider establishing amended energy conservation standards for residential central air conditioners and heat pumps. DOE welcomes written comments from the public on this rulemaking. A copy of the Framework Document is available at: *http://www.eere.energy.gov/buildings/appliance_standards/residential/central_ac_hp.html*.

DATES: Comments must be received at DOE on or before 4:30 PM (EDT) July 31, 2008.

ADDRESSES: Please submit written comments to the U.S. Department of Energy, Forrestal Building, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Stakeholder's comments should be identified by docket number EERE–2008–BT–STD–0006 and/or Regulation Identifier Number (RIN) 1904–AB47, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: Brenda.Edwards@ee.doe.gov* or *Res_Central_AC_HP@ee.doe.gov*. Include EERE–2008–BT–STD–0006 and/or RIN 1904–AB47 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Framework Document for Central Air Conditioners and Heat Pumps, EERE–2008–BT–STD–0006 and/or RIN 1904–AB47, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking found at the beginning of this notice.

Docket: For access to the docket and to read background documents, a copy

of the transcript of the public meeting once it is available, or comments received, go to the U.S. Department of Energy, Resource Room of the Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards first at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Mr. Wes Anderson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–7335.

E-mail: Wes.Anderson@ee.doe.gov.

Mr. Eric Stas or Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. *E-mail: Eric.Stas@hq.doe.gov* or *Michael.Kido@hq.doe.gov.*

Issued in Washington, DC, on June 23, 2008.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E8–15142 Filed 7–2–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0685; Directorate Identifier 2008–CE–039–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

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

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 proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by August 4, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: 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:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0685; Directorate Identifier 2008–CE–039–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On May 23, 2008, we issued AD 2008–11–20, Amendment 39–15543 (73 FR 31355; June 2, 2008). That AD required actions intended to address an unsafe condition on the products listed above.

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, has 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.

Relevant Service Information

STEMME F & D has issued Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

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

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Stemme GmbH & Co. KG: Docket No. FAA–2008–0685; Directorate Identifier 2008–CE–039–AD.

Comments Due Date

(a) We must receive comments by August 4, 2008.

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.

Note: 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.

(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 (the appropriate maintenance manual contains these procedures) and replace all STEMME part number (P/N) M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps. Do the replacements following STEMME F & D Service Bulletin A31–10–

083, Am-Index: 01.a, dated February 26, 2008.

(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 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.

(5) 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. The appropriate maintenance manual contains these procedures.

(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 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.

(7) 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.

(8) 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. The appropriate maintenance manual contains these procedures.

(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: 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) 329–409. 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; and STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, for related information.

Issued in Kansas City, Missouri, on June 27, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–15177 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–138355–07]

RIN 1545–BG98

Modifications to Subpart F Treatment of Aircraft and Vessel Leasing Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the subpart F treatment of aircraft and vessel leasing income under sections 954 and 956 of the Internal Revenue Code (Code) and the transfer of tangible property incorporated in aircraft and vessels that are used predominantly outside the United States under section 367 of the Code. The regulations reflect statutory changes made by section 415 of the American Jobs Creation Act of 2004 (AJCA). In general, the regulations will affect United States shareholders of controlled foreign corporations that derive income from the leasing of aircraft or vessels in foreign commerce and that transfer property subject to these leases to a foreign corporation. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by October 1, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–138355–07), Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–138355–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC., or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS–REG–138355–07).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations under section 367, John H. Seibert, at (202) 622–3860; concerning the proposed regulations under section 954 or 956, Paul J. Carlino at (202) 622–3840; concerning submissions of comments or a public hearing, Richard Hurst, at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in this issue of the **Federal Register** provide guidance under section 367 of the Code, relating to the nonrecognition of gain on certain property transferred to a foreign corporation if the property is used by the foreign corporation in the active conduct of a trade or business outside of the United States. The regulations also provide guidance under section 954 relating to the determination of whether rents derived from leasing an aircraft or vessel in foreign commerce will be treated as derived in the active conduct of a trade or business under section 954(c)(2)(A), and section 956, relating to whether an aircraft or vessel used in the transportation of persons or property in foreign commerce is excluded from U.S. property. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the proposed regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. Ch. 6) does not apply.

Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are John H. Seibert and Paul J. Carlino, Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805. * * *

Par. 2. In § 1.367(a)–2 is added to read as follows:

§ 1.367(a)–2 Exception for transfers of property for use in the active conduct of a trade or business.

[The text of the proposed § 1.367(a)–2 is the same as the text for § 1.367(a)–2T(a) through (e)(2) published elsewhere in this issue of the **Federal Register**.]

Par. 3. In § 1.367(a)–4 is added to read as follows:

§ 1.367(a)–4 Special rules applicable to specified transfers of property (temporary).

[The text of the proposed § 1.367(a)–4 is the same as the text for § 1.367(a)–4T(a) through (i)(1) published elsewhere in this issue of the **Federal Register**.]

Par. 4. In § 1.367(a)–5 is added to read as follows:

§ 1.367(a)–5 Property subject to section 367(a)(1) regardless of use in trade or business.

[The text of the proposed § 1.367(a)–5 is the same as the text for § 1.367(a)–5T(a) through (f)(3)(ii) published elsewhere in this issue of the **Federal Register**.]

Par. 5. Section 1.954–2(c)(2)(ii), (c)(2)(v) and (c)(3) *Example 6* and (i) are revised to read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(c) * * *

(2) * * *

(ii) [The text of the proposed amendment to § 1.954–2(c)(2)(ii) is the same as the text of § 1.954–2T(c)(2)(ii) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(v) [The text of the proposed amendment to § 1.954–2(c)(2)(v) is the same as the text for § 1.954–2T(c)(2)(v) published elsewhere in this issue of the **Federal Register**.]

(vi) [The text of the proposed amendment to § 1.954–2(c)(2)(vi) is the same as the text for § 1.954–2T(c)(2)(vi) published elsewhere in this issue of the **Federal Register**.]

(vii) [The text of the proposed amendment to § 1.954–2(c)(2)(vii) is the same as the text for § 1.954–2T(c)(2)(vii) published elsewhere in this issue of the **Federal Register**.]

(3) * * *

Example 6. [The text of the proposed amendment to § 1.954–2(c)(3) *Example 6* is the same as the text for § 1.954–2T(c)(3) *Example 6* published elsewhere in this issue of the **Federal Register**.]

(i) [The text of the proposed amendment to § 1.954–2(c)(3)(i) is the same as the text for § 1.954–2T(c)(3)(i) published elsewhere in this issue of the **Federal Register**.]

Par. 6. Section 1.956–2(b)(1)(vi) and (e) are revised to read as follows:

§ 1.956–2 Definition of United States Property.

* * * * *

(b) * * *

(1) * * *

(vi) [The text of the proposed amendment to § 1.956–2(b)(1)(vi) is the same as the text for § 1.956–2T(b)(1)(vi) published elsewhere in this issue of the **Federal Register.**]

* * * * *

(e) [The text of the proposed amendment to § 1.956–2(e) is the same as the text of § 1.956–2T(e) published elsewhere in this issue of the **Federal Register**].

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E8–14918 Filed 7–2–08; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0337; FRL–8565–1]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_X) and oxides of sulfur (SO_X) emissions from facilities emitting 4 tons or more per year of NO_X or SO_X in the year 1990 or in any subsequent year under the SCAQMD's Regional Clean Air Incentives Market (RECLAIM) program. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by August 4, 2008.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2008–0337, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov*.
3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know

your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Lily Wong, EPA Region IX, (415) 947–4114, *wong.lily@epa.gov*.

SUPPLEMENTARY INFORMATION: This proposal addresses the following SCAQMD rules: Rule 2004, Rule 2007, and Rule 2010. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 22, 2008.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E8–14883 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 173 and 177

[Docket No. PHMSA–2005–22987 (HM–238)]

RIN 2137–AE06

Hazardous Materials: Requirements for the Storage of Explosives During Transportation

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); reopening of comment period and announcement of public meeting.

SUMMARY: PHMSA is concerned that current requirements may not adequately address the risks associated with the storage of explosives while they are in transportation. On November 16, 2005, we published an advance notice of proposed rulemaking to solicit comments concerning measures to reduce those risks. The comment period closed February 14, 2006. To ensure that our stakeholders are fully aware of the risks we are addressing and given sufficient opportunity to comment, this ANPRM re-opens the comment period, summarizes the comments already in the docket, and announces a public meeting.

DATES: *Written comments:* Comments must be received by October 1, 2008.

Public meeting: August 7, 2008, starting at 9 a.m. and ending at 1 p.m.

ADDRESSES:

Public meeting: The meeting will be held at the U.S. DOT headquarters 1200 New Jersey Ave., SE., Washington, DC 20590. The main visitor's entrance is located in the West Building, on New Jersey Avenue and M Street. For detailed directions please see Section IV. To sign up for the meeting or to request special accommodations, please contact Mr. Ben Supko or Ms. Susan Gorsky at the telephone number or address listed under **FOR FURTHER INFORMATION CONTACT** below.

Comments: You may submit comments identified by the docket number PHMSA–2005–22987 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. Note that all comments received will be posted without change to the docket management system, including any personal information provided.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), which may also be found at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Gorsky or Ben Supko, Office of Hazardous Materials Standards, telephone (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–10, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On November 16, 2005 PHMSA published an advance notice of proposed rulemaking (ANPRM) under Docket HM–238 (70 FR 69493) to solicit comments concerning measures to reduce the risks posed by the storage of explosives while they are in transportation. For persons interested in viewing the ANPRM, it is accessible by PHMSA docket number (PHMSA–2005–22987) through the Federal eRulemaking Portal (*http://www.regulations.gov*). The ANPRM focused primarily on the safe storage of explosives. We also, however, invited commenters to address issues related to security and storage of other types of high-hazard materials.

As indicated in the ANPRM, we are concerned that the current regulations do not adequately address the safety and security risks associated with the storage of explosives while they are in transportation. Brief summaries of the Federal Motor Carrier Safety Regulations (FMCSRs; 49 CFR parts 390–397) and Hazardous Materials Regulations (HMR; 49 CFR parts 171–180), as discussed in the ANPRM, are provided below:

A. FMCSRs

The FMCSRs are administered by the Federal Motor Carrier Safety Administration (FMCSA) to address driver qualifications; vehicle parts and accessories; driving requirements and hours of service; vehicle inspection, repair and maintenance; driving and parking rules for the transportation of hazardous materials; hazardous materials safety permits; and written route plans. The FMCSRs include requirements for storage of explosives incidental to movement. In accordance with the FMCSRs, a motor vehicle that contains Division 1.1, 1.2, or 1.3 explosives must be attended at all times, including during incidental storage, unless the motor vehicle is located on the motor carrier's property, the shipper or consignee's property, or at a ''safe haven'' (49 CFR 397.5).

Under the FMCSRs, a ''safe haven'' is defined as an area specifically approved in writing by Federal, State, or local government authorities for the parking of unattended vehicles containing Division 1.1, 1.2, and 1.3 explosive materials (49 CFR 397.5(d)(3)). The decision as to what constitutes a safe haven is generally made by the local competent authority having jurisdiction over the area. The FMCSRs do not include requirements for safety or security measures for safe havens.

The FMCSRs require any person who files a Motor Carrier Identification Report Form (MCS–150) according to the schedule set forth in § 390.19(a) of the 49 CFR and transports more than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 material or an amount of a Division 1.5 (explosive) material that requires placarding under part 172 of the 49 CFR to hold a valid safety permit. A safety permit is a document issued by FMCSA that contains a permit number and confers authority to transport in commerce the hazardous materials listed in § 385.403 (49 CFR 385.402). Persons holding a safety permit and transporting Division 1.1, 1.2, and 1.3 materials must prepare a written route plan that meets the requirements of § 397.67. The route plan requires carriers to establish a route that avoids heavily populated areas, places where crowds are assembled, tunnels, narrow streets, or alleys (49 CFR 397.67).

In addition, a motor vehicle containing a Division 1.1, 1.2, or 1.3 explosive may not be parked on or within 5 feet of the traveled portion of a public highway or street; on private property without the consent of the person in charge of the property; or within 300 feet of a bridge, tunnel, dwelling, or place where people work or congregate unless for brief periods when parking in such locations is unavoidable (49 CFR 397.7(a)).

B. HMR

In accordance with the HMR, the same requirements apply to the transportation of hazardous materials whether the materials are incidentally stored or actually moving (e.g., shipping papers, emergency response information, hazard communication, packaging, and segregation). As a result, the HMR require each person who incidentally stores explosives during transportation to have a security plan. The security plan must be based on an assessment of possible security risks and must include measures to address those risks. Otherwise, the HMR do not provide standards or incorporate guidelines for facilities to follow when storing explosives incidental to transportation.

C. ANPRM

In the November 2005 ANPRM, we summarized government and industry standards for explosives storage. The standards focus on explosives storage, but vary greatly by mode of transportation, type of explosives, and whether the explosive is in transportation. The standards covered in the ANPRM are listed below. Detailed information on the standards may be obtained by accessing the public docket for this rulemaking.

- Hazardous Materials Regulations (49 CFR parts 171–180).
- Federal Motor Carrier Safety Regulations (49 CFR parts 350–399).
- United States Coast Guard Requirements applicable to explosives storage (33 CFR parts 101–126).
- Bureau of Alcohol, Tobacco, Firearms, and Explosives Regulations for explosives in commerce (27 CFR part 555).
- National Fire Protection Association's NFPA 498, ''Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives'' (NFPA 498).
- Institute of Makers of Explosives Safety Library Publication No. 27, ''Security in Manufacturing, Transportation, Storage and Use of Commercial Explosives.''
- Surface Deployment and Distribution Command, ''SDDC Freight Traffic Rules Publication NO. 1C (MFTRP NO. 1C).''

II. Purpose and Scope of ANPRM

The purpose of this ANPRM is to re-open the comment period, which originally closed February 14, 2006, and to announce a public meeting to solicit comments and discussion on the lack of uniform standards for establishing, approving, and maintaining safe havens for the temporary storage of explosives during motor vehicle transportation. As described in the sections above, there are currently no minimum or uniform criteria for federal, state, or local governments use when approving the establishment and operation of safe havens. In addition, it is likely that current, approved, safe havens do not comply with the very minimum requirements established by Part 397 of the FMCSRs.

One way to decrease the risk associated with motor vehicles transporting explosives being left unattended at rest and truck stops is to require explosives to be attended at all times through the use of driver teams. However, historical experience indicates that this would increase the potential risk to the general public. Enforcing an ''attendance'' requirement is difficult at best. There would be little incentive for operators of vehicles to comply, they may even remove the placards and other visible evidence of the explosive being transported in order to leave the vehicles unattended at locations of their choice, such as residential communities and business districts.

Another way of decreasing risk is to ensure that explosives are stored safely during transportation. Industry consensus standards, such as those provided in NFPA 498, and other guidelines could be incorporated into the HMR to establish a uniform baseline for safe haven locations. This is also a complicated issue that may actually reduce the number of safe havens. Owners of safe havens may be unwilling to absorb the cost required to bring their property into compliance. Development of new, less stringent standards may be an alternative that will balance the risk of unattended explosives with the cost of establishing and maintaining adequate safe haven locations.

While our November 16, 2005 ANPRM focused primarily on safety issues related to the temporary storage of explosives transported by highway, we also discussed additional concerns

regarding: (1) Security; (2) storage by rail and vessel modes; and (3) storage of other high-hazard materials. Since publication of the ANPRM and after reviewing ongoing federal programs intended to enhance the safety and security of hazardous materials stored during transportation by all modes, we decided to narrow the scope of this rulemaking to address the area posing the largest risk to the public—the development of measures for ensuring the safety of explosives temporarily stored during transportation by motor vehicle. The following sections of this preamble detail some of the actions taken by PHMSA and other agencies that promise to reduce risks in the areas of rail and motor carrier security issues, storage during transportation by rail and vessel, and storage of high-hazard materials.

A. PHMSA and TSA Rulemakings Related to Rail Security

PHMSA and Transportation Security Administration (TSA) are working cooperatively to address security issues related to the transportation by rail of high-hazard materials—toxic-inhalation-hazard (TIH) materials, radioactive materials, and explosives. On December 21, 2006, PHMSA, in consultation with the Federal Railroad Administration (FRA) and TSA, published a notice of proposed rulemaking (NPRM; 71 FR 76833) proposing to revise the current requirements in the HMR applicable to the safe and secure transportation of hazardous materials transported in commerce by rail. Based on comments received in response to the NPRM and the provisions of the 9/11 Commission Act, we are adopting the following revisions to the security plan provisions:

- Rail carriers must compile information and data on the commodities transported, including the routes over which these commodities are transported.
- Rail carriers transporting the specified hazardous materials must use the data they compile and relevant information from state, local, and tribal officials, as appropriate, regarding security risks to high-consequence targets along or in proximity to a route to analyze the safety and security risks for each route used and practicable alternative routes to the route used.
- Using these analyses, rail carriers must select the safest and most secure practicable route for the specified hazardous materials.
- In developing their security plans, rail carriers must specifically address the security risks associated with shipments delayed in transit or temporarily stored in transit.
- Rail carriers transporting the covered hazardous materials must notify consignees of any significant unplanned delays affecting the delivery of the hazardous material.
- Rail carriers must work with shippers and consignees to minimize the time a rail car containing one of the specified hazardous materials is placed on track awaiting pick-up, delivery, or transfer.
- Rail carriers must conduct security visual inspections at ground level of rail cars containing hazardous materials that have been accepted for transportation or placed in a train to check for signs of tampering or the introduction of an improvised explosive device (IED).

Also on December 21, 2006, TSA published an NPRM proposing additional security requirements for rail transportation. The TSA rulemaking would enhance security in the rail transportation mode by proposing requirements on freight and passenger railroads, rail transit systems, and on facilities with rail connections that ship, receive, or unload certain hazardous materials. The TSA NPRM includes proposals applicable to the transportation of TIH materials, radioactive materials, and explosives by rail: (1) Location reporting of rail cars upon request from TSA; (2) enhanced chain-of custody procedures to ensure positive and secure change of physical custody when transferring rail cars between carriers and between carriers and rail hazardous materials shipper and receiver facilities; (3) enhanced physical security measures for rail cars awaiting pick-up at shippers' facilities; and (4) enhanced physical security measures for rail cars awaiting unloading at consignee facilities in high-threat urban areas.

B. USCG Requirements Applicable to Explosives Storage

The United States Coast Guard (USCG) issues regulations for the safe and secure handling and storage of explosives and other dangerous cargos that are within or contiguous to waterfront facilities. The USCG's primary statutory authority is set forth in title 46, U.S. Code, the Ports and Waterways Safety Act, 33 U.S.C. 1221, *et seq.*, and the Espionage Act of 1917, as amended by the Magnuson Act of 1950, 16 U.S.C. 1858, and most recently by the Maritime Transportation and Security Act of 2002, 46 U.S.C. 70108, in addition to Executive Orders and Coast Guard regulations implementing the statutory authorities.

The USCG regulations at 33 CFR part 126 establish requirements for designated waterfront facilities. Section 126.15 requires designated waterfront facilities that handle, store, stow, load, discharge, or transport dangerous cargo to meet specific conditions. These requirements adequately address safety issues associated with the temporary storage of explosives during transportation by vessel.

C. TSA Hazardous Materials Truck Security Pilot

In August 2005, TSA initiated the ''TSA Hazardous Materials Truck Security Pilot.'' This congressionally mandated pilot program was designed to test the functionality and capabilities of a centralized truck tracking system. The pilot utilized specific protocols capable of interfacing with existing truck tracking systems, government intelligence centers, and first responders. The goal was for TSA to establish and test a prototype Truck Tracking Center that would allow TSA to ''continually'' track truck locations and specific hazardous materials load types in all 50 states. The tracking system also allowed for automatic or manual notification of exception based events. The TSA Hazardous Materials Truck Security Pilot, including the prototype Truck Tracking Center, ended in 2007.

As we indicated in a June 27, 2007 (72 FR 35211) notice withdrawing Docket HM–232A, entitled Security Requirements for Motor Carriers Transporting Hazardous Materials, any rulemaking to address motor carrier security tracking should be carried out under TSA's legal authority, rather than primarily as an amendment to the HMR. In the notice we advised the public that the TSA has assumed the lead role from PHMSA for rulemaking addressing the security of motor carrier shipments of hazardous materials under the HM–232A docket. Accordingly, we withdrew the ANPRM and closed the rulemaking proceeding. As described in the withdrawal notice, the action was consistent with and supportive of the respective transportation security roles and responsibilities of the DOT and DHS as delineated in a Memorandum of Understanding (MOU) signed September 28, 2004, and the roles of TSA and PHMSA as outlined in an Annex to that MOU signed August 7, 2006.

In light of these ongoing efforts and extensive consultation and coordination with TSA in several other areas to develop measures to enhance transportation security and to identify high-risk materials for which additional

enhanced security measures may be necessary, we have decided to limit the focus of this rulemaking to the safe storage of explosives during transportation by motor vehicle. Working with TSA, we will continue to weigh security risks as we evaluate options for the safe storage of explosives during transportation by motor vehicle.

III. Summary of Comments on the ANPRM

We received 22 comments in response to the ANPRM, as follows:

Commenter	Document No.
Rex C. Railsback	PHMSA–2005–22987–002
Shell Chemical LP	PHMSA–2005–22987–003
Institute of Makers of Explosives (IME)	PHMSA–2005–22987–004
North American Automotive Hazmat Action Committee (NAAHAC)	PHMSA–2005–22987–006
Department of Defense Explosive Safety Board	PHMSA–2005–22987–007
Pacific Maritime Association (PMA)	PHMSA–2005–22987–008
Association of American Railroads (AAR)	PHMSA–2005–22987–009
Baker Petrolite Corporation (BPC)	PHMSA–2005–22987–0010
Boyle Transportation	PHMSA–2005–22987–0011
Air Transport Association	PHMSA–2005–22987–0012
International Vessel Operators Hazardous Materials Association, Inc. (VOHMA)	PHMSA–2005–22987–0013
U.S. Department of Energy (DOE)	PHMSA–2005–22987–0014
Onyx Environmental Services L.L.C. (Onyx)	PHMSA–2005–22987–0015
National Propane Gas Association (NPGA)	PHMSA–2005–22987–0016
PPG Industries, Inc. (PPG)	PHMSA–2005–22987–0017
Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA)	PHMSA–2005–22987–0018
American Trucking Associations (ATA)	PHMSA–2005–22987–0019
The Alliance of Special Effects & Pyrotechnic Operators, Inc. (ASEPO)	PHMSA–2005–22987–0020
Sporting Arms and Ammunition Manufacturers Institute, Inc. (SAAMI)	PHMSA–2005–22987–0021
Dangerous Goods Advisory Council (DGAC)	PHMSA–2005–22987–0022
ARKEMA, Inc. (ARKEMA)	PHMSA–2005–22987–0023
Compressed Gas Association (CGA)	PHMSA–2005–22987–0024

The comments are available for review through the Federal eRulemaking Portal (*http://www.regulations.gov*).

Several of the commenters provided comments highlighting security concerns including specific DHS security initiatives (e.g., transportation worker identity credential (TWIC), cargo security) that are beyond the scope of this rulemaking. We support TSA efforts and agree that the TWIC program, cargo chain security regulations, and the truck security pilot will, when implemented, provide for a more efficient and effective means of screening employees, securing cargo, and ensuring hazardous materials are transported securely. It is not our intention to propose requirements applicable to the storage of explosives in transportation that will conflict with or duplicate DHS regulations. If we determine to move forward with rulemaking, our goal will be to enhance the safety of explosives stored during transportation while providing additional flexibility for motor carriers transporting these materials.

Generally, commenters suggest that a lack of consistent regulations for the storage of explosives during transportation creates a significant safety concern. The commenters do not support a cookie-cutter solution that could limit transportation or create an undue burden for transportation by a particular mode. Commenters suggest that an effective approach would be one that promotes flexibility and provides several storage options for explosives while they are in transportation.

As indicated above, the intention of the ANPRM was to gather information from commenters to help us determine if our stakeholders support further regulatory action. Below we paraphrase the questions asked in the ANPRM and provide a summary of the applicable comments.

1. Effectiveness of Different Types of Safety and Security Measures

IME, NAAHAC, PMA, Boyle Transportation, VOHMA, Onyx , PPG, COSTHA, ASEPO, AAR, and ARKEMA provided comments regarding the effectiveness of different types of safety and security measures. Generally, these commenters suggest that current safety measures are on target, but could use some improvement.

In its comments, ARKEMA outlines several issues that should be addressed in a rulemaking proposal, such as a clear and consistent definition of what constitutes a safe haven, attendance, and the Hours of Service Rules when locating safe havens.

ONYX suggests constant attendance to effectively secure higher-risk explosives in Division 1.1, 1.2, and 1.3 during transportation. In addition, for materials in Division 1.4, 1.5 and 1.6, ONYX indicates adequate safety and security during transportation can be maintained by (1) expediting delivery, (2) minimizing the time the materials are located at a transfer facility, and (3) providing site-specific security measures for any transfer facility.

Boyle Transportation indicates handling and storage during transportation is adequately addressed by NFPA 498. According to Boyle Transportation, ''This standard should be the baseline for any enhancements. And, if introduced into regulation, [NFPA 498] needs to be applicable to all modes so that these materials are consistently secured.''

ATA, COSTHA, AAR, PMA, and VOHMA express concern regarding the development of a one-size fits all rulemaking and provide support for the adequacy of current requirements. ATA indicates the trucking industry has already implemented measures to ensure the safe transportation of hazardous materials.

2. The Costs Involved With Implementing Specific Safety and Security Measures

IME, PMA, Boyle Transportation, VOHMA, ONYX, ATA, and ARKEMA provided comments regarding the costs of implementing enhanced safety measures. Most comments revolve around the costs of physical security, the impact of additional regulations on the explosives transportation industry, and the cost of constructing and maintaining safe havens.

Boyle Transportation, ONYX, and ATA express concern regarding the

dwindling number of carriers transporting explosives. According to Boyle Transportation, implementation of SDDC MFTRP No. 1C eliminated 27 of 30 possible terminals as temporary storage facilities, representing a more than 25% increase in carrier costs due to the inability to perform logistics activities and maintenance at terminal facilities. ATA indicates it is likely more requirements will lead to a niche industry that transports these materials at a much greater cost. ATA states requirements imposed upon this segment of the industry have led to a significant contraction in the number of carriers willing to transport explosives. Currently more than 500,000 carriers are registered with the FMCSA, and approximately 19 transport ammunition and explosives for DOD. Similarly, ONYX indicates it incurs approximately a 15–20% increase over the typical expense of transporting using a single driver when it uses dual drivers to transport Division 1.1, 1.2 and 1.3 materials.

Boyle Transportation and ARKEMA provide additional comments regarding the number of safe havens and other storage locations for explosives. Boyle Transportation notes that less-than-truckload shipments were moved point-to-point as a result of carriers' inability to use terminals, generating much more mileage than previously consolidated shipments. ARKEMA indicates that, in an effort to meet guidelines and secure capacity to move their goods, explosives manufacturers might be forced to handle the transportation themselves or hire specialized carriers to perform the transportation. According to Boyle Transportation, a simple solution is to allow commercial vehicles transporting explosives to stop at Federally designated safe havens. In addition, Boyle Transportation states, ''Most carriers that designed truck terminals for the handling and storage of explosives used NFPA 498 as a guideline.''

3. The Related Safety or Productivity Benefits That Would Help Offset Costs

IME, PMA, Boyle Transportation, ONYX, and ATA provided comments in regard to safety and productivity benefits available to offset the costs of explosive storage standards. IME explains the key to explosives safety is exposing the minimum amount of people to the threat of an accidental explosion. Boyle Transportation states, ''The safety benefit is insurance against the risk of a high consequence, low probability event. Most of this benefit accrues to the general public not the specific carrier.'' According to ATA, the hazardous materials regulatory requirement to transport materials without undue delay has tremendous safety and security benefits.

4. The Effect That Implementing Specific Safety and Security Measures Will Have on the Human Environment

IME, PMA, Boyle Transportation, ONYX, and ATA provided comments on the impact of implementing safety and security measures on the human environment. The comments were divided on this issue. IME expects little impact on the human environment. Boyle Transportation and ONYX indicate that reducing the safety and security risks associated with the transportation of explosives will benefit the public and regulated community. PMA and ATA suggest that disruptions in the flow of cargo may cause significant environmental and land use issues.

5. Ways or Incentives That May Be Appropriate To Consider in Promoting Adoption of Safety and Security Measures in Conjunction With or Separate From General Regulatory Requirements

IME, NAAHAC, PMA, Boyle Transportation, ONYX, and ATA provided comments in response to this question. Generally, the commenters indicate citizens will benefit from the safe transportation of explosives and, therefore, it is beneficial for the government to promote such regulations. Funding methods provided by the commenters include reduced insurance rates, increased inspection protocols or frequencies, new or increased fines, tax credits or direct grants, surcharges or user fees on shipments, and research and education. Commenters suggest that these types of measures could be utilized to fund a more extensive safe haven program that accounts for the true costs and benefits it imposes.

6. The Overall Safety and Security of Safe Havens for Temporary Storage During Transportation, Including Suggestions for Improving Security at Safe Havens or Alternatives to the Use of Safe Havens

The comments are divided when it comes to the safety and security of safe havens; however, commenters generally agree that the addition of accessible storage locations aids in the safe and secure transportation of explosives.

PMA, Baker Hughes, VOHMA, ATA, and SAAMI express concern regarding any mandated use of safe havens. Baker Hughes states, ''Restricting shipments to major shipping lanes where safe havens would be located would not allow us to efficiently service our customers. Shipments would actually be in transit longer, thereby creating more risk rather than less.'' VOHMA, ATA, and SAAMI indicate storing explosives and other high-hazard materials in concentrated locations such as safe havens may cause terrorist actions to be directed toward safe havens. According to ATA, a driver's best defense may be to blend in with other trucks on the road as well as in a rest area. ATA states, ''A standard that allows trucks carrying extremely hazardous materials to be parked in areas that meet Federal security standards may be more appropriate than the use of designated safe havens.''

IME, NAAHAC, Boyle Transportation, ASEPO, and DGAC support the use of safe havens for the storage of explosives. ASEPO states, ''a concerted effort on the part of the Federal government should be made to use its vast resource, including its land, to facilitate the creation of new safe havens in areas where those in private hands have been closed.'' Boyle Transportation's comments indicate it agrees with the incorporation of safe havens into the HMR; however, different standards should be developed for temporary parking at truck stops and carrier terminals (less than 4 hours) than for handling or storage during transportation for up to 100 hours. IME and DGAC recommend the incorporation of *NFPA 498, Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives (2006 ed.*) into the HMR. DGAC goes on to state, to avoid frustration, ''DGAC believes that facilities meeting NFPA 498, Standards for Safe Havens and Interchange Lots for Vehicles Transporting Explosives (2006 ed.) should be recognized as suitable safe havens.''

7. The Conditions and Circumstances Under Which Temporary Storage in Safe Havens Should Be Required

IME, NAAHAC, Boyle Transportation, and ONYX support the performance-based standards provided in NFPA 498 and indicate they pave that way for consistent reasonable requirements for in transit storage facilities provided they are readily available. However, IME requests ''FMCSA strike its vague and arbitrary condition at 397.5(d)(3)'' which indicates a safe haven is a location approved by state or local government for the unattended parking of Division 1.1, 1.2, or 1.3 materials. In addition ONYX states, it would be ''unreasonable for the other lower-hazard explosive materials, particularly when these materials are present in

small quantities, as is most often the case (e.g., the less-than-truckload (LTL) shipment of 2 flares classified as a Division 1.4 along with other hazardous wastes)'' to comply with the safe haven requirements. Similarly, NAAHAC states, ''Once established, temporary storage should apply to placardable quantities of Class 1 materials . . .''

ATA, VOHMA, and DOE state their concerns regarding the mandated use of safe havens. ATA indicates that the current number of safe havens has been inadequate for years, and ''Until there is an extensive network of safe havens, it is unreasonable to require carriers to use safe havens in the transportation of highly hazardous materials.'' DOE and VOHMA express concern regarding the spacing and accessibility of safe havens. DOE indicates we must take into account a driver's ability to reach a designated safe haven based on weather conditions, emergencies, or other factors causing unanticipated delays. VOHMA's concerns focus around the placement of safe havens and the likelihood of frustrated shipments. VOHMA states, ''The cost associated with frustrated cargoes for all goods is high, and certainly the costs associated with frustrated high hazard shipments would be even higher.''

8. Whether Specific Safety and Security Measures Should Be Limited to Certain Explosives and, if so, Which Explosives Might Warrant Specific Security or Safety Measures (i.e., to Which Explosives in Division 1 Through Division 6 and in What Quantity Should These Measures Apply)

IME, NAAHAC, PMA, Boyle Transportation, ONYX, and ATA support specific safety and security measures for certain explosives, but differ on which measures should apply and which materials should be subject. IME prefers the application of the safety and security measures provided in SLP–27, which are applicable to explosives in Division 1.1, 1.2, and 1.3. NAAHAC states, ''Specific safety and security transportation measures should be limited to explosive shipments that require placards.'' PMA recommends we follow the standards provided in USCG requirements applicable to explosives storage (33 CFR Part 126) as they apply to type and quantity of materials. Boyle Transportation supports increased safety and security measures for Division 1 through Division 1.4 explosives. In addition, Boyle states, ''Shipments of explosives should require two drivers.'' ONYX indicates the use of safe havens for lower-hazard explosives materials is not justified; however, it supports the current FMCSA requirements for Division 1.1, 1.2, and 1.3 explosives to be attended at all times. To limit extremely hazardous materials in one place, ATA states, ''One concept that merits additional consideration is using the concept of maximum net explosive mass as a means of limiting the quantity of extremely hazardous materials that are allowed to be present on any one transport vehicle, train, ship, or in any one area.''

9. Whether We Should Consider Aggregation Limits on the Storage of Explosives and Other High-Hazard Materials at a Single Facility During Transportation

Shell Chemical, NAAHAC, PMA, Baker Hughes, VOHMA, CGA, and AAR oppose aggregation limits on the storage of explosives at a single facility during transportation. Shell Chemical states, ''Limits on storage would place a burden on certain locations and disrupt their operational processes.'' NAAHAC expresses concern regarding the likelihood of drivers being required to seek alternate safe haven due to the fact that a facility had already reached its ''allowable'' quantity of Class 1 hazardous materials. NAAHAC indicates under such circumstances the drivers may have to drive hundreds of miles to seek an alternate parking location and possibly violate the FMCSA hours of operation limit, providing for a greater risk.

IME, Boyle Transportation, ONYX, and ATA indicate they may support an aggregation limit on the amount of explosives stored at a single facility while in transportation. IME states, ''Risk-based aggregation limits on the storage of explosives and other high-hazard materials at a single facility during transportation are appropriate.'' ATA supports the concept of limiting the quantity based on a maximum net explosive mass.

10. Whether We Should Consider Limits on the Time That a Shipment of Explosives or Other High-Hazard Materials Could Be Stored During Transportation

Shell Chemical, IME, NAAHAC, PMA, ATA, and CGA indicate we should not consider limits on the amount of time explosives or other high-hazard materials may be stored during transportation. Shell Chemical indicates time limits will have an enormous impact on the supply systems for these materials and would do nothing more than shift the risk from one jurisdiction to others. IME and CGA indicate the requirement for materials to be transported without undue delay is sufficient. CGA states ''DOT has also stated that anything should be deliverable within 10 days. This was their reason to require a shipping paper to be retained for 375 days before the recent change to the 2-year retention period.''

11.Whether Shipping Documents Should Indicate That a Shipment Will Be Stored at a Safe Haven or Other Facility During Transportation

IME, Boyle Transportation, and ONYX agree that shipping documents should provide the locations where a shipment will be stored during transportation. IME states, ''Shipping documents, specifically the route or trip plan, should indicate all stops which includes storage at a safe haven or other facility during transportation.'' Boyle Transportation states ''A documented route of travel (paper or electronic) and tracking systems that detect out of route conditions should be a requirement for all modes and stops for safe haven en route should be identified. ONYX indicates it would support the addition of storage locations on the route plan for Division 1.1, 1.2 or 1.3 materials but not for other explosives in Divisions 1.4, 1.5, and 1.6.

12. Whether There Are Additional Standards, Other Than Those Outlined Above, That We Should Take Into Consideration

NAAHAC, PMA, Boyle Transportation, and CGA indicated we may want to review additional standards and programs for developing uniform storage requirements for explosives during transportation. Those standards and programs are listed below:

- Uniform Fire Code and International Fire Code;
- Requirements for a Declaration of Security under Coast Guard regulations;
- Hazards of Electromagnetic Radiation to Ordnance (HERO) certification required by DOD for any electronic system in a commercial vehicle used to transport DOD munitions.
- Safety Permit regulation to transport highly toxic (Zone A) and bulk quantities of dangerous goods
- Risk Management Programs—regulate the amounts of highly toxic dangerous goods stored at a facility
- CDL hazmat endorsement
- Driver background checks
- State laws pertaining to dangerous goods transport

13. Whether Development of an Industry or Consensus Standard or Regulation Should Be Pursued in This Area

Shell Chemical, Boyle Transportation, and ATA highlight the importance of involving industry representatives in the rulemaking process. IME and NAAHAC support our development of a rulemaking in this area. IME calls for the adoption of the consensus standard, NFPA 498. PMA, ONYX, and CGA indicate they do not support regulatory action in this area. ONYX indicates it supports the use and operation of safe havens, but ''does not believe there is a need for PHMSA to pursue regulations for the transportation of explosive materials.''

IV. Public Meeting

We are holding a public meeting on Thursday, August 7, 2008 at U.S. DOT headquarters located at 1200 New Jersey Ave, SE., Washington, DC 20590. The meeting will begin at 9 a.m. in conference room 6 of our Conference Center, which is located in the atrium of the West Building. The main visitor's entrance is located in the West Building, on New Jersey Avenue and M Street. Upon entering the lobby, visitors must report to the security desk. Visitors should indicate that they will be attending the Explosives Storage Public Meeting and wait to be escorted to the Conference Center. Due to the limited amount of parking around DOT Headquarters, use of public transit is strongly advised. DOT is served by the Navy Yard Metrorail Station (Green line). The closest exit to DOT Headquarters is the Navy Yard exit. The West building is located diagonally across M Street from the Navy Yard Metrorail Station.

The public meeting will focus on safety issues associated with the temporary storage of explosives during transportation. PHMSA encourages all interested persons, including state and local officials, emergency response personnel, and explosives shippers and carriers, to participate in this meeting. We would like to use this forum to promote a dialogue among all interested stakeholders to help us identify the most appropriate strategies for enhancing the safe storage of explosives during transportation. Any person wishing to participate in the public meeting should provide their name and organization to Ben Supko or Susan Gorsky, by telephone or in writing no later than July 24, 2008. Providing this information will facilitate the security screening process for entry into the building on the day of the meeting. Participants do not need to prepare oral comments, but rather, be prepared to take part in an open discussion on issues raised by the comments summarized above. Some questions to consider before the meeting include:

1. Are safe havens currently available? How many? Where are they located?
2. Would a network of safe havens provide a safety benefit?
3. What is the value of a rest stop for the vehicle and the driver?
4. Would companies use safe havens or continue using driver teams? Does one promote safety more than the other?
5. Would the adoption of an industry consensus standard such as NFPA 498 promote the development of safe havens?
6. Do facilities that are being used as safe havens meet the requirements of NFPA 498?
7. Would you expect companies to convert existing facilities that meet NFPA 498 into safe havens?
8. How can we improve on the safety measures provided in NFPA 498? Should we include aggregation limits, time limits, etc.?
9. If we incorporate by reference NFPA 498 into the HMR, should we expect a drop in the number of carriers similar to what occurred when DOD implemented SDDS MFTRP No.1C?
10. Would it be more appropriate to align safe havens with the SDDC MFTRP No.1C than a consensus standard such as NFPA 498?
11. What is the impact of eliminating the requirement for safe havens to be approved by Federal, state, or local government officials?
12. Would state and local governments allow the development of safe havens without prior approval?
13. Are zoning restrictions the primary force against the development of safe havens?
14. What emergency response needs must be taken into consideration when selecting a location for a safe haven and how should they be addressed?
15. Are areas that house carrier facilities (close proximity to transportation arteries, industrial parks, etc.) sufficient locations for safe havens in terms of emergency response capabilities?
16. What costs apply to the operation of safe havens?
17. Would safe haven operators charge a fee to carriers for allowing them to use their safe haven?
18. Is the concept of temporary parking (less than 4 hours) at truck stops and carrier terminals a sufficient alternative to safe havens?

We also urge interested parties to identify issues we may have overlooked in the ANPRM. For example, the ANPRM made no mention of a final report entitled, ''Recommended National Criteria for the Establishment and Operation of Safe Havens'' that was published in November of 1990 by the Commercial Vehicle Safety Alliance (CVSA). The CVSA report may be outdated, but it did address available safe havens, future locations for safe havens, a national standard for safe havens, and several other issues pertinent to this docket. For persons interested in preparing comments or viewing the CVSA report, it is accessible by PHMSA docket number (PHMSA–2005–22987) on the Federal eRulemaking Portal (on the Web site *http://www.regulations.gov).*

V. Regulatory Analyses and Notices

A. Executive Order 12866: Regulatory Planning and Review

Executive Order 12866 requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits that may be associated with adoption of specific storage requirements for carriers that include explosives storage as part of their transportation cycle.

B. Executive Order 13132: Federalism

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. We invite State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific storage requirements for carriers that transport and store explosives in commerce may have on State or local safety or environmental protection programs.

C. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct

compliance costs'' on such communities. We invite Indian tribal governments to provide comments as to the effect that adoption of specific storage requirements for explosives that are transported in commerce may have on Indian communities.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), we must consider whether a proposed rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if adoption of specific storage requirements applicable to explosives transported in commerce could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected.

E. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and that they prepare a detailed statement on actions significantly affecting the quality of the human environment. Interested parties are invited to address the potential environmental impacts of regulations applicable to the storage of explosives transported in commerce. We are particularly interested in comments about safety measures that would provide greater benefit to the human environment, or on alternative actions the agency could take that would provide beneficial impacts.

F. Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under authority of the Federal hazardous materials transportation law (49 U.S.C. 5101 *et seq.*), which authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in interstate, intrastate, and foreign commerce.

G. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

H. Privacy Act

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

Issued in Washington, DC, on June 30, 2008, under authority delegated in 49 CFR part 106.

Theodore L. Willke,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E8–15119 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 73, No. 129
Thursday, July 3, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No.: AMS–DA–08–0026; DA–08–03]

Request for an Extension of and Revision to a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, the Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for the Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Recordkeeping (Subpart B).

DATES: Comments received by September 2, 2008, will be considered.

Additional Information or Comments: Contact Reginald L. Pasteur, USDA/AMS/Dairy Programs, Dairy Standardization Branch, Room 2746-South Building, 1400 Independence Avenue, SW., Washington, DC 20250–0230; Telephone: 202–690–3571, Fax: 202–720–2643, or e-mail *Reginald.pasteur@usda.gov.* All comments will be available for public inspection at the above location, or on the Internet at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—RecordKeeping (Subpart B).

OMB Number: 0581–0110.

Expiration Date of Approval: January 31, 2009.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) directs the Department to develop programs which will provide for and facilitate the marketing of agricultural products. One of these programs is the USDA voluntary inspection and grading program for dairy products (7 CFR Part 58) where these dairy products are graded according to U.S. grade standards by a USDA grader. The dairy products under the dairy program may be identified with the USDA grade mark. Dairy processors, buyers, retailers, institutional users, and consumers have requested that such a program be developed to assure the uniform quality of dairy products purchased. In order for any service program to perform satisfactorily, there are regulations for the provider and user. For these reasons, the dairy inspection and grading program regulations were developed and issued under the authority of the Act. These regulations are essential to administer the program to meet the needs of the user and to carry out the purposes of the Act.

The information collection requirements in this request are essential to carry out the intent of the AMA to ensure that dairy products are produced under sanitary conditions and that buyers are purchasing a quality product. In order for the Regulations governing the Inspection and Grading of Manufactured or Processed Dairy Products to serve the government, industry, and the consumer, laboratory test results must be recorded.

Respondents are not required to submit information to the agency. The records are to be evaluated by a USDA inspector at the time of an inspection. These records include quality tests of each producer, plant records of required tests and analysis, and starter and cheese make records. As an offsetting benefit, the records required by USDA are also records that are routinely used by the inspected facility for their own supervisory and quality control purposes.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.85 hours per response.

Respondents: Dairy products manufacturing facilities.

Estimated Number of Respondents: 487.

Estimated Number of Responses: 1388.

Estimated Number of Responses per Respondent: 2.85.

Estimated Total Annual Burden on Respondents: 3956.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Reginald Pasteur, 1400 Independence Avenue, SW., Room 2746—South, Washington, DC 20250–0230. All comments received will be available for public inspection at the above location, or on the Internet at *http://www.regulations.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: June 27, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–15075 Filed 7–2–08; 8:45 am]

BILLING CODE 3410–02–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights

ACTION: Notice of briefing and meeting.

DATE AND TIME: Friday, July 11, 2008; 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Rm. 540, Washington, DC 20425.

Meeting Agenda

I. Approval of Agenda
II. Approval of Minutes
- June 6, 2008 Meeting.

III. Staff Director's Report
IV. Motion for Executive Session
V. Management and Operations

- Status of FY 2008 Budget.
- FY 2009 Budget Submission to Congress.

VI. Program Planning
- 2010 Program Planning.
- Briefing Report on Racial Categorization in the Census.
- Briefing Report on the Deliberate Creation of Racially Identifiable School Districts in Omaha, Nebraska.

VII. State Advisory Committee Issues
- Arkansas SAC.
- Wisconsin SAC.

VIII. Other Business
- DOT Guidance Regarding Disadvantaged Business Enterprise (''DBE'') Program.

IX. Future Agenda Items

X. Adjourn

FOR FURTHER INFORMATION CONTACT: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8582.

Dated: July 1, 2008.

Emma Monroig,

Solicitor.

[FR Doc. 08–1410 Filed 7–1–08; 1:29 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–882

Refined Brown Aluminum Oxide from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for Preliminary Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding in part the administrative review of the antidumping duty order on refined brown aluminum oxide (RBAO) from the People's Republic of China (PRC) for the period November 1, 2006, to October 31, 2007, with respect to Henan Yilong High and New Materials Co. Ltd. (Henan Yilong). This partial rescission is based on the withdrawal of the request for review by the interested party that requested the review. Additionally, the Department is extending the preliminary results of this administrative review to no later than December 1, 2008.

EFFECTIVE DATE: July 3, 2008.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4136 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background:

On November 1, 2007, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on, *inter alia*, RBAO from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 61859 (November 1, 2007). In response, Fujimi Corporation (Fujimi), an importer of the subject merchandise, timely requested an administrative review of the antidumping duty order on RBAO from the PRC for entries of the subject merchandise during the November 1, 2006, through October 31, 2007, period of review (POR) from two PRC producers/exporters: Henan Yilong and Qingdao Shunxingli Abrasives Co. Ltd. (Qingdao Shunxingli).

On December 27, 2007, the Department initiated a review on Henan Yilong and Qingdao Shunxingli. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 73315 (December 27, 2007). The preliminary results of this review are currently due no later than August 1, 2008.

In a letter dated May 23, 2008, Fujimi withdrew its request for review of Henan Yilong and requested that the Department rescind the review with respect to this company. On June 2, 2008, domestic producers Washington Mills, C + E Minerals, and Treibacher Scheifmittel Corp. (collectively, ''domestic producers''), submitted comments opposing Fujimi's request. Fujimi responded to the domestic producers' opposition on June 11, 2008.

Rescission, in Part, of Administrative Review

The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review in whole or in part. Furthermore, the regulation states the Secretary may extend this time limit if the Secretary decides that it is reasonable to do so.

The domestic producers object to Fujimi's request, stating that it is untimely, and that both the Department and the domestic producers already have devoted extensive time and resources to this review. Further, the domestic producers contend that Fujimi waited until surrogate value data was placed on the record to determine whether the review results would be favorable before withdrawing its review request for Henan Yilong.

Although Fujimi withdrew the request for review of Henan Xilong after the 90-day deadline, the Department finds it reasonable to extend the withdrawal deadline. Contrary to the domestic producers' assertions, the Department has not yet devoted significant time or resources to analyzing Henan Yilong's information for this review, e.g., the Department has not yet completed its analysis of Henan Xilong's questionnaire responses, nor issued a supplemental questionnaire for portions of the Henan Xilong questionnaire response. *See, e.g., Honey from Argentina: Notice of Extension of Time Limit for Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 50661 (September 4, 2007), remaining unchanged in *Honey from Argentina: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 73 FR 24220 (May 2, 2008) (where the Department extended the deadline for withdrawal of the review request because it had not yet devoted significant resources to the review). Additionally, the Department has not yet made any determinations on the selection of surrogate values to apply in this review. Thus, we find no basis to support the domestic producers' allegation concerning Fujimi's timing of the withdrawal request. Further, we note that the domestic producers did not request a review for this segment of the proceeding. Therefore, for all these reasons, the Department determines it is reasonable to rescind the review with respect to Henan Xilong. The Department will issue appropriate assessment instructions for Henan Xilong directly to U.S. Customs and Border Protection (CBP) 15 days after the publication of this notice. The Department will direct CBP to assess antidumping duties for Henan Xilong at the cash deposit rates in effect on the date of entry for entries during the period November 1, 2006, through October 31, 2007.

Notification to Parties

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of time. Failure to comply with this

requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend that time period to a maximum of 365 days.

The Department has determined it is not practicable to complete this review for the remaining respondent, Qingdao Shunxingli, within the statutory time limit because we require additional time to analyze complex issues, such as the valuation of the principal raw material and the financial ratios, and the questionnaire responses submitted by Qingdao Shunxingli. The time needed to analyze this information and to develop fully the record in this administrative review makes it impracticable to complete the preliminary results within the originally specified time limit. Accordingly, the Department is extending the time limit for completion of the preliminary results of this administrative review until no later than December 1, 2008 (*i.e.*, the next business day following the 365th day after the last day of the anniversary month of the order). We intend to issue the final results no later than 120 days after publication of the preliminary results notice.

This notice is issued and published in accordance with and sections 751(a)(1), 751(a)(3)(A), and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: June 27, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–15262 Filed 7–2–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RI 0648–XI79

Caribbean Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: The Caribbean Fishery Management Council will hold public hearings to obtain input from fishers, the general public, and the local agencies representatives on the Draft Environmental Impact Statement (DEIS) amendment 4 to the Spiny Lobster Fishery Management Plan of Puerto Rico and the U.S. Virgin Islands.

DATES: The public hearings will be held from July 17, 2008 through July 22, 2008. See **SUPPLEMENTARY INFORMATION** for specific dates and times and locations.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The public hearings will be held on the following dates and locations:

- July 17, 2008, Mayaguez Resort and Casino, Rd. 104, Km. 0.3, Mayaguez, Puerto Rico
- July 18, 2008, Pierre Hotel at Gallery Plaza, De Diego Avenue, Santurce, Puerto Rico
- July 21, 2008, Frenchman's Reef and Morning Star Hotel, 5 Estate Bakkeroe, St. Thomas, USVI
- July 22, 2008, Caravelle Hotel, 44A Queen Cross St., Christiansted, St. Croix, USVI.

All meetings will be held from 7 p.m. to 10 p.m.

The Caribbean Fishery Management Council will hold Public Hearings to receive public input on a proposal Draft Environmental Impact Statement (DEIS) to establish a size limit for spiny lobster imports into the United States. This action would prohibit any person in the United States from importing spiny lobster:

-less than 5–ounces tail weight (5 ounces is defined as a tail that weighs 4.2–5.4 ounces) or compliance may be demonstrated by meeting the greater than 3–inch carapace length or 5.5–inch tail length.

-or if imported into Puerto Rico or the US Virgin Islands, less than 6.0–ounces tail weight (6 ounces is defined as a tail that weighs 5.9–6.4 ounces) or compliance may be demonstrated by meeting the 3.5–inch carapace length or 6.2–inch tail length.

-additionally, the importation of lobster tail meat without the exoskeleton (shell) attached, egg bearing female lobsters, or tails stripped of eggs would be prohibited.

Written comments must be received no later than August 11, 2008, in order to be considered by NOAA Fisheries. You may submit comments by any of the following methods:

-ELECTRONIC SUBMISSION E-MAIL: *0648–AV61.DEIS@noaa.gov*

-FAX: (727) 824–5308

-MAIL: Jason Rueter, Sustainable Fisheries Division, Southeast Regional Office, NOAA Fisheries Service, 263, 13th Avenue South, St. Petersburg, FL 33701–5505.

When submitting fax or e-mail comments, include the following document identifier in the comment subject line: 0648–AV61. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the DEIS may be obtained from the NOAA Fisheries Service Web site at *http://sero.nmfs.noaa.gov/sf/SpinyLobsterAmendment.htm*, or for a hard (paper) copy contact: Sustainable Fisheries Division, Southeast Regional Office, NOAA Fisheries Service 263, 13th Avenue South, St. Petersburg, FL 33701–5505.

Special Accommodations

These hearings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: June 30, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–15115 Filed 7–2–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI80

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's (CFMC) Scientific and Statistical Committee (SSC) will hold a meeting.

DATES: The SSC meeting will be held on July 24, 2008.

ADDRESSES: The meeting will be held at the Pierre Hotel at Gallery Plaza, De Diego Avenue, Santurce, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The SSC will meet to discuss the items contained in the following agenda:

- Call to order
- Annual Catch Limits (ACLs) /Accountability Measures (AM) Guidelines
- Technical Monitoring and Compliance Team (TMCT) Report
- Annual Catch Limit Plan Development Group (ACLG) Report
- Discussion of TMCT and ACLG Reports
- Recommendations of the SSC to the CFMC
- Other Business
- Next Meeting

The SSC will convene on July 24, 2008, from 9:30 a.m. until 5 p.m.

The meeting is open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: June 30, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–15116 Filed 7–2–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI78

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Herring Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, July 30, 2008, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn By the Bay, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. Review and discuss scoping comments received regarding Amendment 4 to the Herring Fishery Management Plan (FMP).

2. Review background information about observer coverage and monitoring/reporting issues (if available).

3. Work on the development of management alternatives for further consideration in Amendment 4 to the Herring FMP; the Committee and Advisory Panel may discuss measures to address monitoring and reporting requirements, observer coverage, shoreside monitoring and sampling, annual catch limits (ACLs) and accountability measures (AMs), measures to address herring bycatch concerns in the Atlantic mackerel fishery, and individual and group quota allocation programs (IFQs and sectors, for example), as well as other measures that were suggested for consideration during the scoping process

4. Develop Committee recommendations for Council consideration in October regarding the specific management measures to be considered further in Amendment 4.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: June 30, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–15113 Filed 7–2–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI42

Small Takes of Marine Mammals Incidental to Specified Activities; Harbor Activities Related to the Delta IV/Evolved Expendable Launch Vehicle at Vandenberg Air Force Base, CA

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS received a request from United Launch Alliance (ULA) for a one-year authorization to take small numbers of marine mammals by harassment incidental to *Delta Mariner* operations, cargo unloading activities, harbor maintenance dredging, and kelp habitat mitigation activities related to the Delta IV/Evolved Expendable Launch Vehicle (EELV) at south Vandenberg Air Force Base, CA (VAFB). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to authorize ULA to take, by Level B harassment, small numbers of several species of pinnipeds at south VAFB beginning August 2008.

DATES: Comments and information must be received no later than August 4, 2008.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648XI42@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody or Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289, or Monica DeAngelis, NMFS Southwest Region, (562) 980–3232.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [''Level A harassment'']; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [''Level B harassment''].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS' review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On February 18, 2008, NMFS received an application from ULA requesting an authorization for the harassment of small numbers of Pacific harbor seals (*Phoca vitulina richardsi*) and California sea lions (*Zalophus californianus*) incidental to harbor activities related to the Delta IV/EELV, including: transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation operations. In addition, northern elephant seals (*Mirounga angustirostris*) may also be incidentally harassed but in even smaller numbers. Incidental Harassment Authorizations (IHAs) were issued to The Boeing Company, now ULA, on May 15, 2002 (67 FR 36151, May 23, 2002), May 20, 2003 (68 FR 36540, June 18, 2003), May 20, 2004 (69 FR 29696, May 25, 2004), May 23, 2005 (70 FR 30697, May 27, 2005), June 20, 2006 (71 FR 36321, June 26, 2006), and June 21, 2007 (72 FR 34444, June 22, 2007) each for a 1–year period. No work and, therefore, no monitoring was conducted under the 2007 IHA. The harbor where activities will take place is on south VAFB approximately 2.5 mi (4.02 km) south of Point Arguello, CA and approximately 1 mi (1.61 km) north of the nearest marine mammal pupping site (i.e., Rocky Point).

Specified Activities

Delta Mariner off-loading operations and associated cargo movements will occur a maximum of 3 times per year. The *Delta Mariner* is a 312–ft (95.1–m) long, 84–ft (25.6–m) wide steel hull ocean-going vessel capable of operating at an 8–ft (2.4–m) draft. For the first few visits to the south VAFB harbor, tug boats will accompany the *Delta Mariner*. Sources of noise from the *Delta Mariner* include ventilating propellers used for maneuvering into position and the cargo bay door when it becomes disengaged. Removal of the common booster core (CBC) from the vessel requires use of an elevating platform transporter (EPT), an additional source of noise with sound levels measured at approximately 85 decibels (dB) A-weighted (re 20 microPascals at 1–m) 20 ft (6.1 m) from the engine exhaust when the engine is running mid-speed (Acentech, 1998). Procedures require two short (approximately 1/3 second) beeps of the horn prior to starting the ignition. The sound level of the EPT horn ranged from 62–70 dB A-weighted at 200 ft (60.9 m) away, and 84–112 dB A-weighted at 25 ft (7.6 m) away. Containers containing flight hardware items will be towed off the *Delta Mariner* by a tractor tug that generates a sound level of

approximately 87 dB A-weighted at 50 ft (15.2 m) while in operational mode. Total docking and cargo movement activities is estimated to be approximately 14 to 18 hours in good weather.

To accommodate the *Delta Mariner*, the harbor will need to be dredged, removing up to 5,000 cubic yards of sediment per dredging. Dredging will involve the use of heavy equipment, including a clamshell dredge, dredging crane, a small tug, dredging barge, dump trucks, and a skip loader. Measured sound levels from this equipment are roughly equivalent to those estimated for the wharf modification equipment: 43–81 dB A-weighted at 250 ft (76.2 m). Dredge operations, from set-up to tear-down, would continue 24–hr a day for 3 to 5 weeks. Sedimentation surveys have shown that initial dredging indicates that maintenance dredging should be required annually or twice per year, depending on the hardware delivery schedule.

A more detailed description of the work proposed for 2008 is contained in the application which is available upon request (see **ADDRESSES**) and in the Final U.S. Air Force Environmental Assessment for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base (ENSR International, 2001).

Marine Mammals Affected by the Activity

Pacific Harbor Seals

The marine mammal species likely to be harassed incidental to harbor activities at south VAFB are the Pacific harbor seal and the California sea lion. The most recent estimate of the Pacific harbor seal population in California is 31,600 seals. Since 1990 there has been no net population growth along the mainland or the Channel Islands. The decrease in population growth rate has occurred at the same time as a decrease in human-caused mortality and may indicate that the population has reached its environmental carrying capacity (Carretta *et al.*, 2007). The total population of harbor seals on VAFB is now estimated to be 1,099 (maximum of 515 seals hauled out at one time on south VAFB) based on sighting surveys and telemetry data (SRS Technologies, 2003).

The daily haul-out behavior of harbor seals along the south VAFB coastline is primarily dependent on time of day. The highest number of seals haul-out at south VAFB between 1100 through 1600 hours. In addition, haul-out behavior at all sites seems to be influenced by environmental factors such as high swell, tide height, and wind. The combination of all three may prevent seals from hauling out at most sites. The number of seals hauled out at a site can vary greatly from day to day based on environmental conditions. Harbor seals occasionally haul out at a beach 250 ft (76.2 m) west of the south VAFB harbor and on rocks outside the harbor breakwater where ULA will be conducting *Delta Mariner* operations, cargo loading, dredging activities, and reef enhancement. The maximum number of seals present during the 2001 dredging of the harbor was 23 (averaging 7 per observation period), and the maximum number hauled out during the 2002 wharf modification activities was 43, averaging 21 per day when tidal conditions were favorable for hauling out. Dredging and reef enhancement did not occur from 2003–2007. The harbor seal pupping site closest to south VAFB harbor is Rocky Point, approximately 1 mi (1.61 km) north of the harbor. However, harbor seals have been reported to haul-out on the coast at Sudden Ranch, approximately 0.5 mi (0.8 km) south of the harbor.

Several factors affect the seasonal haul-out behavior of harbor seals including environmental conditions, reproduction, and molting. Harbor seal numbers at VAFB begin to increase in March during the pupping season (March to June) as females spend more time on shore nursing pups. The number of hauled-out seals is at its highest during the molt, which occurs from May through July. During the molting season, tagged harbor seals at VAFB increased their time spent on shore by 22.4 percent; however, all seals continued to make daily trips to sea to forage. Molting harbor seals entering the water because of a disturbance are not adversely affected in their ability to molt and do not endure thermoregulatory stress. During pupping and molting season, harbor seals at the south VAFB sites expand into haul-out areas that are not used the rest of the year. The number of seals hauled out begins to decrease in August after the molt is complete and reaches the lowest number in late fall and early winter.

California Sea Lions

During the wharf modification activity in June-July 2002, California sea lions were observed hauling out on the breakwater in small numbers (up to 6 individuals). Although this is considered to be an unusual occurrence and is possibly related to fish schooling in the area, ULA included sea lions in the request.

California sea lions range from British Columbia to Mexico. The most recent population estimates for the California sea lions range from 237,000 to 244,000 individuals (Caretta *et al.*, 2007). Between 1975 and 2001, the population growth rate was 5.4–6.1 percent. A 1985–1987 population survey indicated that most individuals on the Northern Channel Islands were on San Miguel Island (SMI), with the population ranging from 2,235 to over 17,000. The largest numbers of California sea lions in the VAFB vicinity occur at Lion Rock, 0.4 mi (0.64 km) southeast of Point Sal. This area is approximately 1.5 mi (2.41 km) north of the VAFB boundary. At least 100 sea lions can be observed during any season at this site. The Point Arguello beaches and the rocky ledges of South Rocky Point on south VAFB are haulout areas that may be used by California sea lions. In 2003, at least 145 sea lions were observed at Rocky Point, including five pups that did not survive due to abandonment shortly after birth. This was thought to be an El Nino effect, as there had never been any previously reported sea lion births at VAFB (Thorson, 2003).

Each year, small groups of sea lions have been observed heading south along the VAFB coastline in April and May (Tetra Tech, 1997). Starting in August, large groups of sea lions can be seen moving north, in groups varying in size from 25 to more than 300 (Roest, 1995). This concurs with established migration patterns (Reeves *et al.*, 1992; Roest, 1995). Juvenile sea lions can be observed hauled-out with harbor seals along the South Base sites from July through September (Tetra Tech, 1997). Starving and exhausted sub-adult sea lions are fairly common on central California beaches during the months of July and August (Roest, 1995).

During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to SMI and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente. Breeding season begins in mid-May, occurring within 10 days of arrival at the rookeries. Molting occurs gradually over several months in the late summer and fall. Because the molt is not catastrophic, the sea lions can enter the water to feed.

Male California sea lions migrate annually. In the spring they migrate southward to breeding rookeries in the Channel Islands and Mexico, then migrate northward in the late summer following breeding season. Females appear to remain near the breeding rookeries. The greatest population on land occurs in September and October during the post-breeding dispersal, although many of the sea lions,

particularly juveniles and sub-adult and adult males, may move north away from the Channel Islands.

Other Marine Mammals

Other marine mammal species are rare to infrequent along the south VAFB coast during certain times of the year and are unlikely to be harassed by ULA's activities. These four species are: the northern elephant seal, the northern fur seal (*Callorhinus ursinus*), Guadalupe fur seal (*Arctocephalus townsendi*), and Steller sea lion (*Eumetopias jubatus*). Northern elephant seals may occur on VAFB but do not haul out in the harbor area. Northern fur seals, Guadalupe fur seals, and Steller sea lions occur along the California coast and Northern Channel Islands but are not likely to be found on VAFB. Descriptions of the biology and distribution of these species can be found in the NMFS Stock Assessment Reports at *http://www.nmfs.noaa.gov/pr/sars/*, as well as other sources such as Stewart and Yochem (1994, 1984), Forney *et al.* (2000), Koski *et al.* (1998), Barlow *et al.* (1993), Stewart and DeLong (1995), and Lowry *et al.* (1992). Please refer to those documents for information on these species.

Potential Effects of Activities on Marine Mammals

Acoustic and visual stimuli generated by the use of heavy equipment during the *Delta Mariner* off-loading operations, dredging, and kelp habitat mitigation and the increased presence of personnel, may cause short-term disturbance to harbor seals and California sea lions hauled out on the beach and rocks near south VAFB harbor. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

Based on the measured sounds of construction equipment, such as might be used during ULA's activities, sound level intensity decreases proportional to the square root of the distance from the source. A dredging crane at the end of the dock producing 88 dBA of noise would be approximately 72 dBA at the nearest beach or the end of the breakwater, roughly 250 ft (76.2 m) away. The EPT produces approximately 85 dBA, measured less than 20 ft (6 m) from the engine exhaust, when the engine is running at mid speed. The EPT operation procedure requires two short beeps of the horn (approximately 1/3 of a second each) prior to starting the ignition. Sound level measurements for the horn ranged from 84–112 dBA at 25 ft (7.6 m) away and 62–70 dBA at 200 ft (61 m) away. The highest measurement was taken from the side of the vehicle where the horn is mounted. Ambient background noise measured approximately 250 ft (76.2 m) from the beach was estimated to be 35–48 dBA (Acentech, 1998; EPA, 1971).

Pinnipeds sometimes show startle reactions when exposed to sudden brief sounds. An acoustic stimulus with sudden onset (such as a sonic boom) may be analogous to a ''looming'' visual stimulus (Hayes and Saif, 1967), which may elicit flight away from the source (Berrens *et al.*, 1988). The onset of operations by a loud sound source, such as the EPT during CBC off-loading procedures, may elicit such a reaction. In addition, the movements of cranes and dredges may represent a ''looming'' visual stimulus to seals hauled out in close proximity. Seals and sea lions exposed to such acoustic and visual stimuli may either exhibit a startle response and/or leave the haul-out site.

According to the MMPA and NMFS implementing regulations, if harbor activities disrupt the behavioral patterns of harbor seals or sea lions, these activities would take marine mammals by Level B harassment. In general, if the received level of the noise stimulus exceeds both the background (ambient) noise level and the auditory threshold of the animals, and especially if the stimulus is novel to them, there may be a behavioral response. The probability and degree of response will also depend on the season, the group composition of the pinnipeds, and the type of activity in which they are engaged. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering (i.e., Level B harassment) and would not cause injury or mortality to marine mammals.

On the other hand, startle and alert reactions accompanied by large-scale movements, such as stampedes into the water of hundreds of animals, may rise to the degree of Level A harassment and could result in injury of individuals. In addition, such large-scale movements by dense aggregations of marine mammals or at pupping sites could potentially lead to takes by injury or death. However, there is no potential for large-scale movements leading to serious injury or mortality near the south VAFB harbor because on average the number of harbor seals hauled out near the site is less than 30 individuals, and there is no pupping at nearby sites. The effects of the harbor activities are expected to be limited to short-term startle responses and localized behavioral changes.

According to the June 2002 dock modification construction report (ENSRI, 2002), the maximum number of harbor seals hauled out each day ranged from 23 to 25 animals. There were 15 occasions in which construction noise, vehicle noise, or noise from a fishing boat caused the seals to lift their heads. Flushing only occurred due to fishing activities, which were unrelated to the construction activities. The sea lions were less reactive to the construction noise than the harbor seals. None of the construction activities caused any of the sea lions to leave the jetty rocks, and there was only one incident of a head alert reaction.

The report from the December 2002 dredging activities show that the number of Pacific harbor seals ranged from 0 to 19, and that California sea lions did not haul out during the monitoring period. On 10 occasions, harbor seals showed head alerts, although two of the alerts were for disturbances that were not related to the project. No harbor seals flushed during the activities on the dock.

For a further discussion of the anticipated effects of the planned activities on harbor seals in the area, please refer to the application, NMFS 2005 Environmental Assessment (EA), and ENSR International's 2001 Final EA.

Numbers of Marine Mammals Expected to be Harassed

ULA estimates that a maximum of 43 harbor seals per day may be hauled out near the south VAFB harbor, with a daily average of 21 seals sighted when tidal conditions were favorable during previous dredging operations in the harbor. Considering the maximum and average number of seals hauled out per day, assuming that the seals may be seen twice a day, and using a maximum total of 73 operating days in 2008–2009, NMFS estimates that a maximum of 767 to 1,570 Pacific harbor seals may be subject to Level B harassment out of a total estimated population of 31,600. These numbers are small relative to this population size (2.4–5 percent).

During wharf modification activities, a maximum of six California sea lions were seen hauling out in a single day. Based on the above-mentioned calculation, NMFS believes that a maximum of 219 California sea lions may be subject to Level B harassment out of a total estimated population of 240,000. These numbers are small relative to this population size (less than 0.1 percent). Up to 10 northern elephant seals (because they may be in nearby waters) may be subject to Level B harassment out of a total estimated

population of 101,000. These numbers are small relative to this population size (less than 0.01 percent).

Possible Effects of Activities on Marine Mammal Habitat

ULA does not anticipate any loss or modification to the habitat used by Pacific harbor seals or California sea lions that haul out near the south VAFB harbor. The harbor seal and sea lion haul-out sites near south VAFB harbor are not used as breeding, molting, or mating sites; therefore, it is not expected that the activities in the harbor will have any impact on the ability of Pacific harbor seals or California sea lions in the area to reproduce.

ULA anticipates unavoidable kelp removal during dredging. This habitat modification will not affect the marine mammal habitat. However, ULA will mitigate for the removal of kelp habitat by placing 150 tons of rocky substrate in a sandy area between the breakwater and the mooring dolphins to enhance an existing artificial reef. This type of mitigation was implemented by the Army Corps of Engineers following the 1984 and 1989 dredging. A lush kelp bed adjacent to the sandy area has developed from the efforts. The substrate will consist of approximately 150 sharp-faced boulders, each with a diameter of about 2 ft (0.61 m) and each weighing about 1 ton (907 kg). The boulders will be brought in by truck from an off-site quarry and loaded by crane onto a small barge at the wharf. The barge is towed by a tugboat to a location along the mooring dolphins from which a small barge-mounted crane can place them into the sandy area. ULA plans to perform the reef enhancement in conjunction with the next maintenance dredging event in order to minimize cost and disturbances to animals. Noise will be generated by the trucks delivering the boulders to the harbor and during the operation of unloading the boulders onto the barges and into the water.

Proposed Mitigation Measures

To reduce the potential for disturbance from visual and acoustic stimuli associated with the activities, ULA proposes to undertake the following marine mammal mitigating measures:

(1) If activities occur during nighttime hours, lighting will be turned on before dusk and left on the entire night to avoid startling pinnipeds at night.

(2) Activities will be initiated before dusk.

(3) Construction noises must be kept constant (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present.

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, start-up of activities will include a gradual increase in noise levels.

(5) A NMFS-approved marine mammal observer will visually monitor the harbor seals on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of ULA's activities (see Monitoring).

(6) The *Delta Mariner* and accompanying vessels will enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks, and the vessel will reduce speed to 1.5 to 2 knots (1.5–2.0 nm/hr; 2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel will enter the harbor stern first, approaching the wharf and mooring dolphins at less than 0.75 knot (1.4 km/hr).

(7) As alternate dredge methods are explored, the dredge contractor may introduce quieter techniques and equipment.

Proposed Monitoring Measures

As part of its 2002 application, Boeing, now ULA, provided a proposed monitoring plan for assessing impacts to harbor seals from the activities at south VAFB harbor and for determining when mitigation measures should be employed. NMFS proposes the same plan for this IHA.

A NMFS-approved and VAFB-designated biologically trained observer will monitor the area for pinnipeds during all harbor activities. During nighttime activities, the harbor area will be illuminated, and the monitor will use a night vision scope. Monitoring activities will consist of:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities.

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough for pinnipeds to haul out (2 ft, 0.61 m, or less).

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

Monitoring results from previous years of these activities have been reviewed and incorporated into the analysis of potential effects in this document, as well as the take estimates.

Reporting

ULA will notify NMFS 2 weeks prior to initiation of each activity. After each activity is completed, ULA will provide a report to NMFS within 90 days. This report will provide dates, times, durations, and locations of specific activities, details of pinniped behavioral observations, and estimates of numbers of affected pinnipeds and impacts (behavioral or other). In addition, the report will include information on the weather, tidal state, horizontal visibility, and composition (species, gender, and age class) and locations of haul-out group(s). In the unanticipated event that any cases of pinniped injury or mortality are judged to result from these activities, this will be reported to NMFS immediately.

Endangered Species Act (ESA)

This action will not affect species listed under the ESA that are under NMFS' jurisdiction. VAFB formally consulted with the U.S. Fish and Wildlife Service in 1998 on the possible take of southern sea otters during Boeing's, now ULA, harbor activities at south VAFB. A Biological Opinion was issued in August 2001, which concluded that the EELV Program is not likely to jeopardize the continued existence of the southern sea otter, and no injury or mortality is expected. The activities covered by this IHA are analyzed in that Biological Opinion, and this IHA does not modify the action in a manner that was not previously analyzed.

National Environmental Policy Act

In 2001, the United States Air Force (USAF) prepared an EA for Harbor Activities Associated with the Delta IV Program at VAFB. In 2005, NMFS prepared an EA supplementing the information contained in the USAF EA and issued a Finding of No Significant Impact on the issuance of an IHA for Boeing's, now ULA, harbor activities in accordance with section 6.01 of the NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). ULA's proposed activities and impacts for 2007–2008 are expected to be within the scope of NMFS' 2005 EA and FONSI.

Preliminary Conclusions

NMFS proposes to issue an IHA to ULA for harbor activities related to the Delta IV/EELV to take place at south VAFB over a 1–year period. Issuance of this IHA would be contingent upon adherence to the proposed mitigation, monitoring, and reporting requirements described in this FR notice. NMFS has preliminarily determined that the impact of harbor activities related to the Delta IV/EELV at VAFB, including:

transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation, would result in Level B harassment only of small numbers of Pacific harbor seals, California sea lions, and northern elephant seals; and would have a negligible impact on the affected species. The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses does not apply for this proposed action. Northern fur seals, Guadalupe fur seals, and Steller sea lions are unlikely to be found in the area and, therefore, will not be affected. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near south VAFB harbor.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to ULA for the Delta IV EELV Program, provided that the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 27, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–15154 Filed 7–2–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI68

Taking of Marine Mammals Incidental to Specified Activities; Construction of the East Span of the San Francisco-Oakland Bay Bridge

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

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received a request from the California Department of Transportation (CALTRANS) for renewal of an authorization to take small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and gray whales, by harassment, incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OBB) in California. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to CALTRANS to incidentally take, by harassment, small numbers of these species of pinnipeds and cetaceans during the next 12 months.

DATES: Comments and information must be received no later than August 4, 2008.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed here. The mailbox address for providing email comments is *PR1.0648–XI68@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. A copy of the 2001 application, the 2008 renewal request, the January 2005 Marine Mammal and Acoustic Monitoring report, and the August 2006 Hydroacoustic Measurements report may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, (301) 713–2289, ext 137, or Monica DeAngelis, NMFS, (562) 980–3232.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On March 3, 2008, CALTRANS submitted a request to NOAA requesting renewal of an IHA for the possible harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsii*), harbor porpoises (*Phocoena phocoena*), and gray whales (*Eschrichtius robustus*) incidental to construction of a replacement bridge for the East Span of the SF-OBB, in San Francisco Bay (SFB), California. An IHA was issued to CALTRANS for this activity on May 2, 2007 and it expired on May 1, 2008 (72 FR 25748, May 7, 2007). However, no pile driving activities were conducted during that period. In the March 3 request, CALTRANS states that it has scheduled pile driving for 2008 - 2009, which CALTRANS intended to begin in June 2008. A detailed description of the SF-OBB project was provided in the November 14, 2003 (68 FR 64595) **Federal Register** notice of IHA and is not repeated here. Please refer to that **Federal Register** notice.

On June 2, 2008, CALTRANS provided an update on the proposed pile driving activities planned for the 2008 season. In its update, CALTRANS states that pile driving for the 2008 construction would be driving the 42 - 48 in (0.17 - 0.19 m) diameter temporary piles, as opposed to the 5.9 - 8.2 ft (1.8 - 2.5 m) diameter permanent piles. Therefore, the noise from pile driving of these temporary piles would be far less than from previous pile driving

activities. In addition, CALTRANS indicates that deployment of air bubble curtain would not be feasible for the driving of these smaller temporary piles due to the complexity of the driving frames.

Description of the Marine Mammals Potentially Affected by the Activity

General information on the marine mammal species found in California waters can be found in Caretta *et al.* (2007), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2007.pdf*. Refer to that document for information on these species.

The marine mammals most likely to be found in the SF-OBB area are the California sea lion, Pacific harbor seal, and harbor porpoise. From December through May gray whales may also be present in the SF-OBB area. Information on California sea lion, harbor seal, and gray whale was provided in the November 14, 2003 (68 FR 64595), **Federal Register** notice; information on harbor porpoise was provided in the January 26, 2006 (71 FR 4352), **Federal Register** notice.

Potential Effects on Marine Mammals and Their Habitat

CALTRANS and NMFS have determined that open-water pile driving, as outlined in the project description, has the potential to result in behavioral harassment of California sea lions, Pacific harbor seals, harbor porpoises, and gray whales that may be swimming, foraging, or resting in the project vicinity while pile driving is being conducted. Pile driving could potentially harass those few pinnipeds that are in the water close to the project site, whether their heads are above or below the surface.

Based on airborne noise levels measured and on-site monitoring conducted during 2004 under the previous IHA, noise levels from the East Span project did not result in the harassment of harbor seals hauled out on Yerba Buena Island (YBI). Also, noise levels from the East Span project are not expected to result in harassment of the sea lions hauled out at Pier 39 as airborne and waterborne sound pressure levels (SPLs) would attenuate to levels below where harassment would be expected by the time they reach that haul-out site, 5.7 km (3.5 miles) from the project site. Therefore, no pinniped hauled out would be affected as a result of the proposed pile-driving. A detailed description of the acoustic measurements is provided in the 2004 CALTRANS' marine mammal and acoustic monitoring report for the same activity (CALTRANS' 2005).

For reasons provided in greater detail in NMFS' November 14, 2003 (68 FR 64595) **Federal Register** notice and in CALTRANS' June 2004, January 2005 annual monitoring reports, and marine mammal observation memoranda between February and September, 2006, the proposed construction would result in harassment of only small numbers of harbor seals and would not result in more than a negligible impact on marine mammal stocks and their habitat. This was achieved by implementing a variety of monitoring and mitigation measures including marine mammal monitoring before and during pile driving, establishing safety zones, ramping up pile driving, and deploying air bubble curtain to attenuate underwater pile driving sound. However, with no air bubble curtain being deployed for the proposed pile driving of smaller temporary piles, additional cautions must be exercised to ensure that no marine mammals will be taken by Level A (i.e., injury) harassment. Based on the pinniped distribution within the proposed project area and prior monitoring reports, NMFS estimates that up to 5 harbor seals and 5 California sea lions could be taken by Level B behavioral harassment as a result of the proposed temporary pile driving project.

Short-term impacts to habitat may include minimal disturbance of the sediment where the channels are dredged for barge access and where individual bridge piers are constructed. Long-term impacts to marine mammal habitat will be limited to the footprint of the piles and the obstruction they will create following installation. However, this impact is not considered significant as the marine mammals can easily swim around the piles of the new bridge, as they currently swim around the existing bridge piers.

Proposed Mitigation

NMFS proposes the following mitigation measures for the planned 2008 SF-OBB planned construction activities to reduce adverse impacts to marine mammals to the lowest extent practicable.

Establishment of Safety/Buffer Zones

CALTRANS indicated that for the planned 2008 SF-OBB construction pile driving activities, an air bubble curtain cannot be deployed due to the complexity of the driving frame. Therefore, proposed shutdown safety zones corresponding to where a marine mammal could be injured would be established based on empirical field measurements of pile driving sound levels.

These safety zones shall include all areas where the underwater SPLs are anticipated to equal or exceed 190 dB re 1 microPa rms (impulse) for pinnipeds and 180 dB re 1 microPa rms (impulse) for gray whales and harbor porpoises, and be monitored at all times when pile driving is underway.

Observers on boats will survey the safety zone to ensure that no marine mammals are seen within the zone before pile driving of a pile segment begins. If marine mammals are found within the safety zone, pile driving of the segment will be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor will wait 15 minutes and if no marine mammals are seen by the observer in that time it will be assumed that the animal has moved beyond the safety zone. This 15–minute criterion is based on scientific evidence that harbor seals in San Francisco Bay dive for a mean time of 0.50 minutes to 3.33 minutes (Harvey and Torok, 1994), and the mean diving duration for harbor porpoises ranges from 44 to 103 seconds (Westgate *et al.*, 1995). However, due to the limitations of monitoring from a boat, there can be no assurance that the zone will be devoid of all marine mammals at all times.

Once the pile driving of a segment begins it cannot be stopped until that segment has reached its predetermined depth due to the nature of the sediments underlying the Bay. If pile driving stops and then resumes, it would potentially have to occur for a longer time and at increased energy levels. In sum, this would simply amplify impacts to marine mammals, as they would endure potentially higher SPLs for longer periods of time. Pile segment lengths and wall thickness have been specially designed so that when work is stopped between segments (but not during a single segment), the pile tip is never resting in highly resistant sediment layers. Therefore, because of this operational situation, if seals, sea lions, or harbor porpoises enter the safety zone after pile driving of a segment has begun, pile driving will continue and marine mammal observers will monitor and record marine mammal numbers and behavior. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements as outlined previously in this document.

Soft Start

It should be recognized that although marine mammals will be protected from Level A harassment (i.e., injury) through marine mammal observers monitoring a 190–dB safety zone for pinnipeds and 180–dB safety zone for cetaceans, mitigation may not be 100 percent effective at all times in locating marine mammals. Therefore, in order to provide additional protection to marine mammals near the project area by allowing marine mammals to vacate the area prior to receiving a potential injury, CALTRANS will also ''soft start'' the hammer prior to operating at full capacity. CALTRANS typically implements a ''soft start'' with several initial hammer strikes at less than full capacity (i.e., approximately 40–60 percent energy levels) with no less than a 1 minute interval between each strike. Similar levels of noise reduction are expected underwater. Therefore, the contractor will initiate pile driving hammers with this procedure in order to allow pinnipeds or cetaceans in the area to voluntarily move from the area. This should expose fewer animals to loud sounds both underwater and above water noise. This would also ensure that, although not expected, any pinnipeds and cetaceans that are missed during safety zone monitoring will not be injured.

Compliance with Equipment Noise Standards

To mitigate noise levels and, therefore, impacts to California sea lions, Pacific harbor seals, harbor porpoises, and gray whales, all construction equipment will comply as much as possible with applicable equipment noise standards of the U.S. Environmental Protection Agency, and all construction equipment will have noise control devices no less effective than those provided on the original equipment.

Proposed Monitoring

The following monitoring measures were required under the 2007 - 2008 IHA. Unless, as noted, the work has been completed, NMFS proposes to continue those monitoring measures under a new IHA (if issued).

Visual Observations

The area-wide baseline monitoring and the aerial photo survey to estimate the fraction of pinnipeds that might be missed by visual monitoring have been completed under the current IHA and do not need to be continued.

Safety zone monitoring will be conducted during driving of all open-water, permanent piles without cofferdams and with cofferdams when underwater SPLs reach 190 dB RMS or greater. Monitoring of the pinniped and cetacean safety zones will be conducted by a minimum of three qualified NMFS-approved observers for each safety zone. One three-observer team will be required for the safety zones around each pile driving site, so that multiple teams will be required if pile driving is occurring at multiple locations at the same time. The observers will begin monitoring at least 30 minutes prior to startup of the pile driving. Most likely observers will conduct the monitoring from small boats, as observations from a higher vantage point (such as the SF-OBB) are not practical. Pile driving will not begin until the safety zones are clear of marine mammals. However, as described in the Mitigation section, once pile driving of a segment begins, operations will continue uninterrupted until the segment has reached its predetermined depth. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements as outlined previously (see Mitigation). Monitoring will continue through the pile driving period and will end approximately 30 minutes after pile driving has been completed. Biological observations will be made using binoculars during daylight hours.

In addition to monitoring from boats, during open-water pile driving, monitoring at one control site (harbor seal haul-out sites and the waters surrounding such sites not impacted by the East Span Project's pile driving activities, i.e. Mowry Slough) will be designated and monitored for comparison. Monitoring will be conducted twice a week at the control site whenever open-water pile driving is being conducted. Data on all observations will be recorded and will include items such as species, numbers, behavior, details of any observed disturbances, time of observation, location, and weather. The reactions of marine mammals will be recorded based on the following classifications that are consistent with the Richmond Bridge Harbor Seal survey methodology (for information on the Richmond Bridge authorization, see 68 FR 66076, November 25, 2003): (1) No response, (2) head alert (looks toward the source of disturbance), (3) approach water (but not leave), and (4) flush (leaves haul-out site). The number of marine mammals under each disturbance reaction will be recorded, as well as the time when seals re-haul after a flush.

Acoustical Observations

Airborne noise level measurements have been completed and underwater environmental noise levels will continue to be measured as part of the East Span Project. The purpose of the underwater sound monitoring is to establish the safety zone of 190 dB re 1 micro-Pa RMS (impulse) for pinnipeds and the safety zone of 180 dB re 1 micro-Pa RMS (impulse) for cetaceans. Monitoring will be conducted during the driving of the last half (deepest pile segment) for any given open-water pile. One pile in every other pair of pier groups will be monitored. One reference location will be established at a distance of 100 m (328 ft) from the pile driving. Sound measurements will be taken at the reference location at two depths (a depth near the mid-water column and a depth near the bottom of the water column but at least 1 m (3 ft) above the bottom) during the driving of the last half (deepest pile segment) for any given pile. Two additional in-water spot measurements will be conducted at appropriate depths (near mid water column), generally 500 m (1,640 ft) in two directions either west, east, south or north of the pile driving site will be conducted at the same two depths as the reference location measurements. In cases where such measurements cannot be obtained due to obstruction by land mass, structures or navigational hazards, measurements will be conducted at alternate spot measurement locations. Measurements will be made at other locations either nearer or farther as necessary to establish the approximate distance for the safety zones. Each measuring system shall consist of a hydrophone with an appropriate signal conditioning connected to a sound level meter and an instrument grade digital audiotape recorder (DAT). Overall SPLs shall be measured and reported in the field in dB re 1 micro-Pa rms (impulse). An infrared range finder will be used to determine distance from the monitoring location to the pile. The recorded data will be analyzed to determine the amplitude, time history and frequency content of the impulse.

Proposed Reporting

Under previous IHAs, CALTRANS submitted weekly marine mammal monitoring reports for the time when pile driving was commenced. In August 2006, CALTRANS submitted its Hydroacoustic Measurement at Piers T1 and E2 report. This report is available

by contacting NMFS (see **ADDRESSES**) or on the Web at *http://biomitigation.org*.

Under the proposed IHA, coordination with NMFS will occur on a weekly basis. During periods with open-water pile driving activity, weekly monitoring reports will be made available to NMFS and the public at *http://biomitigation.org*. These weekly reports will include a summary of the previous week's monitoring activities and an estimate of the number of seals and sea lions that may have been disturbed as a result of pile driving activities.

In addition, CALTRANS proposes to provide NMFS' Southwest Regional Administrator with a draft final report within 90 days after completion of the westbound Skyway contract and 90 days after completion of the Suspension Span foundations contract. This report should detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed due to pile driving. If no comments are received from NMFS Southwest Regional Administrator within 30 days, the draft final report will be considered the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) for the take of marine mammals incidental to construction of the East Span of the SF-OBB and made a Finding of No Significant Impact (FONSI) on November 4, 2003. Due to the modification of part of the construction project and the mitigation measures, NMFS is reviewing additional information from CALTRANS regarding empirical measurements of pile driving noises for the smaller temporary piles, and will make a final NEPA determination before issuing a final IHA. A copy of the EA and FONSI is available upon request (see **ADDRESSES**).

Endangered Species Act (ESA)

On October 30, 2001, NMFS completed consultation under section 7 of the ESA with the Federal Highway Administration (FHWA) on the CALTRANS' construction of a replacement bridge for the East Span of the SF-OBB in California. Anadromous salmonids are the only listed species which may be affected by the project. The finding contained in the Biological Opinion was that the proposed action at the East Span of the SF-OBB is not likely to jeopardize the continued existence of listed anadromous salmonids, or result in the destruction or adverse modification of designated critical habitat for these species. Listed marine mammals are not expected to be in the area of the action and thus would not be affected.

NMFS proposed issuance of an IHA to CALTRANS constitutes an agency action that authorizes an activity that may affect ESA-listed species and, therefore, is subject to section 7 of the ESA. The effects of the activities on listed salmonids were analyzed during consultation between the FHWA and NMFS, and the underlying action has not changed from that considered in the consultation. Therefore, the effects discussion contained in the Biological Opinion issued to the FHWA on October 30, 2001, pertains also to this action. NMFS has determined that issuance of an IHA for this activity does not lead to any effects on listed species apart from those that were considered in the consultation on FHWA's action.

Preliminary Determinations

For the reasons discussed in this document and in previously identified supporting documents, NMFS has preliminarily determined that the impact of pile driving and other activities associated with construction of the East Span Project should result, at worst, in the Level B harassment of small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and potentially gray whales that inhabit or visit SFB in general and the vicinity of the SF-OBB in particular. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within SFB and haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to preliminarily determine that this action will have a negligible impact on California sea lion, Pacific harbor seal, harbor porpoises, and gray whale populations along the California coast.

In addition, no take by Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document. The activity will not have an unmitigable adverse impact on subsistence uses of marine mammals described in MMPA section 101(a)(5)(D)(i)(II)

Proposed Authorization

NMFS proposes to issue an IHA to CALTRANS for the potential harassment of small numbers of harbor seals, California sea lions, harbor porpoises, and gray whales incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge in California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of harbor seals, California sea lions, harbor porpoises, and possibly gray whales and will have no more than a negligible impact on these marine mammal stocks.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**). Prior to submitting comments, NMFS recommends reviewers of this document read NMFS' November 14, 2003 (68 FR 64595) **Federal Register** notice on the SF-OBB construction project, especially responses to comments made previously, as NMFS does not intend to address these issues further without the submission of additional relevant scientific information.

Dated: June 27, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI50

Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Navy Research, Development, Test, and Evaluation Activities Conducted within the Naval Surface Warfare Center Keyport Range Complex Extension

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

ACTION: Notice; receipt of applications for letters of authorization; request for comments and information.

SUMMARY: NMFS has received requests from the U.S. Navy (Navy) for authorizations for the take of marine mammals incidental to Navy research, development, test, and evaluation (RDT&E) activities within the Naval Sea Systems Command (NAVSEA) Naval Undersea Warfare Center (NUWC)

Keyport Range Complex and the associated proposed extensions in the State of Washington for the period beginning September 25, 2009 and ending September 24, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's requests for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's applications and requests.

DATES: Comments and information must be received no later than August 4, 2008.

ADDRESSES: Comments on the applications should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–XI50@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. Copies of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext. 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

With respect to military readiness activities, the MMPA defines ''harassment'' as:

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On May 15, 2008, NMFS received an application from the Navy requesting an authorization for the take of marine mammal species/stocks incidental to the proposed RDT&E activities within the NAVSEA NUWC Keyport Range Complex Extension over the course of 5 years. The Navy proposes to extend the Keyport Range Complex operating areas, which is composed of Keyport Range Site, Dabob Bay Range Complex (DBRC) Site, and Quinault Underwater Tracking Range (QUTR) Site, outside existing range boundaries. This proposed extension would allow the Navy to support existing and future range activities including evolving manned and unmanned vehicle program needs in multiple marine environments. With the proposed extension of the Keyport and QUTR range sites, the range sites could support more activities, which include increases in the numbers of tests and days of testing. No additional operational tempo is proposed for the DBRC Site. Existing and proposed additional range activities include testing, training, and evaluation of system capabilities such as guidance, control, and sensor accuracy of manned and unmanned vehicles in multiple marine environments (e.g., differing depths, salinity levels, temperatures, sea states, etc.).

Current activities within the Keyport Range Complex Extension are listed below:

Range Activities: Active Acoustic Devices

(1) General Range Tracking:

General range tracking on the instrumented ranges and portable range sites have active output in narrow frequency bands. Operating frequencies are 10 to 100 kHz. At the Keyport Range Site, the sound pressure level (SPL) at the source (source level) is less than 195 dB re 1 microPa-m. At the DBRC and QUTR sites, the source level for general range tracking is less than 203 dB re 1 microPa-m. Range pingers are active acoustic devices that allow each of the in-water platforms on the range (e.g., ships, submarines, target simulators, and exercise torpedoes) to be tracked by the Keyport Range Complex Extension hydrophones. In addition to passively tracking the pinger signal from each range participant, the range transducer nodes also are capable of transmitting acoustic signals for a limited set of functions. These functions include submarine warning signals, acoustic commands to submarine target simulators (acoustic command link), and occasional voice or data communications (received by participating ships and submarines on range).

(2) UUV Tracking Systems

UUV tracking systems operate at frequencies of 10 to 100 kHz with source levels less than 195 dB re 1 microPa-m at all range sites.

(3) Torpedo Sonars

Toped sonars are used for several purposes including detection, classification, and location and vary in frequency from 10 to 100 kHz. The source level of a torpedo sonar is generally less than 233 dB re 1 microPa-m. Torpedoes are the primary weapon used by surface ships, aircraft, and submarines. The guidance systems of these weapons can be autonomous or electronically controlled from the launching platform through an attached wire. The autonomous guidance systems are acoustically based. They operate either passively, exploiting the emitted sound energy by the target, or actively, ensonifying the target and using the received echoes for guidance.

(4) Range Targets and Special Tests

Range targets and special test systems are within the 5 to 100 kHz frequency range at the Keyport Range Site with a source level of less than 195 dB re 1 microPa-m. At the DBRC and QUTR sites, the source level is less than 238 dB re microPa-m.

(5) Special Sonars

Special sonars can be carried as a payload on a UUV, suspended from a range craft, or set on or above the sea floor. These can vary widely from 100 kHz to a very high frequency of 2,500 kHz for very short range detection and

classification. The source level of these acoustic sources is less than 235 dB re 1 microPa-m.

(6) Sonobuoys and Helicopter Dipping Sonar

Aircraft sonar systems that would operate in the Keyport Range Complex Extension include sonobuoys and dipping sonar. Sonobuoys and helicopter dipping sonars are deployed from Fleet aircraft and operate at frequencies of 2 to 20 kHz with source levels of less than 225 dB re 1 microPa-m. Dipping sonars are active or passive devices that are lowered on cable by helicopters or surface vessels to detect or maintain contact with underwater targets. Sonobuoys may be deployed by maritime patrol aircraft or helicopters; dipping sonars are used by carrier-based helicopters. A sonobuoy is an expendable device used by aircraft for the detection of underwater acoustic energy and for conducting vertical water column temperature measurements. Most sonobuoys are passive, but some can generate active acoustic signals, as well as listen passively. During RDT&E, these systems active modes are only used briefly for localization of contacts and are not used in primary search capacity.

(7) Side Scan Sonar

Side scan sonar is used for mapping, detection, classification, and localization of items on the sea floor such as cabling, shipwrecks, and inert mine shapes. It is high frequency, typically 100 to 700 kHz, using multiple frequencies at one time with a very directional focus. Source levels are less than 235 dB re 1 microPa-m. Side-scan and multibeam sonar systems are towed or mounted on a test vehicle or ship.

(8) Other Acoustic Sources

Other acoustic sources include acoustic modems, targets, aids to navigation, subbottom profilers, engine noise, countermeasures, etc. which uses few pulses from 10 to 300 kHz at source levels less than 220 dB re 1 microPa-m. An acoustic modem is a communication device that transmits an acoustically encoded signal from a source to a receiver. Acoustic modems emit a few pulses from 10 to 300 kHz at source levels less than 210 dB re 1 microPa-m. Target simulators operate at frequencies of 100 Hz to 10 kHz at source levels of less than 170 dB re 1 microPa-m. Aids to navigation transmit location data from ship to shore and back to ship so the crew can have real-time detailed location information. This is typical of the range equipment used in support of testing. New aids to navigation can also be deployed and tested using 70–80 kHz at source levels less than 210 dB re 1 microPa-m. Subbottom profilers are often commercial off-the-shelf sonars used to determine characteristics of the sea bottom and subbottom such as mud above bedrock or other rocky substrate. These operate at 2 7 kHz at source levels less than 210 dB re 1 microPa-m, and 35 45 kHz at less than 220 dB re 1 microPa-m. There are many sources of engine noise including but not limited to surface vessels, submarines, torpedoes, and other UUVs. The acoustic energy is usually from 50 Hz to 10 kHz at source levels less than 150–170 dB re 1 microPa-m. Targets, both mobile and stationery, may simulate engine noise at these same frequencies.

Range Activities: Non-Acoustic Activities

(1) Magnetic Sensors

A magnetic sensor may be used to sense the magnetic field of an object such as a surface vessel, a submarine, or a buried target. Magnetic sensors may be part of a UUV payload or they may be stationary on the sea floor.

(2) Biologic Sensors

Biologic sensors have been used historically to determine marine characteristics such as conductivity, temperature, and pressure of water to determine sound velocity in water. This provides information about how sound will travel through the water. These sensors can be deployed over the side from a surface craft, suspended in water, or carried on a UUV.

(3) LIDAR

Laser imaging detection and ranging (LIDAR) is used to measure distance, speed, rotation, and chemical composition and concentration of remote solid objects such as a ship, or diffuse objects such as a smoke plume or cloud. LIDAR uses the same principle as radar.

(4) Inert Mine Hunting & Inert Mine Clearing Exercises

Associated with testing, a series of inert mine shapes are set out in a uniform or random pattern to test the detection, classification and localization capability of the system under test. They are made from plastic, metal, and concrete and vary in shape. An inert mine shape can measure about 10 by 1.75 ft (3 by 0.5 m) and weigh about 800 lbs (362 kg). Inert mine shapes either sit on the bottom or are tethered by an anchor to the bottom at various depths. Inert mine shapes can be placed approximately 200–300 yards (183–274 m) apart using a support craft and remain on the bottom until they need to be removed. All major components of all inert mine systems used as ''targets'' for inert mine hunting systems are removed within 2 years.

Increased Activities due to Range Expansion

The proposed range expansion would expend the existing activities for each of the following range sites. For detailed information regarding the platform/system use and projected annual days of use at each range site, please refer to Tables 1–4 and 2–1 of the LOA application.

(1) Keyport Range Site:

Range boundaries of the Keyport Range Site would be extend to the north, east and south, increasing the size of the range from 1.5 nm^2 to 1.7 nm^2 (5.1 km^2 to 5.9 km^2). The average annual days of use of the Keyport Range Site would increase from the current 55 days to 60 days.

(2) DBRC Site:

The southern boundary of DBRC Site would be extended to the Hamma Hamma River and its northern boundary would be extended to 1 nm (2 km) south of the Hood Canal Bridge (Highway 104). This expansion would increase the size of the current operating area from approximately 32.7 nm^2 (112.1 km^2) to approximately 45.7 nm^2 (150.8 km^2) and would afford a straight run of approximately 27.5 nm (50.9 km). There would be no change in the number and types of activities from the existing range activities at DBRC Site, and no increase in average annual days of use due to the range expansion at this site.

(3) QUTR Site:

Range boundaries of QUTR Site would be extended to coincide with the overlying special use airspace of W–237A plus locate a 7.8 nm^2 (26.6 km^2) surf zone at Pacific Beach. The total range area would increase from approximately 48.3 nm^2 (165.5 km^2) to approximately 1,839.8 nm^2 (6,310.2 km^2). The average annual number of days of use for offshore activities would increase from 14 days/year to 16 days/year in the offshore area. The average annual days of use for surf-zone activities would increase from 0 days/year to 30 days/year.

The Navy states that these range activities may cause various impacts to marine mammal species in the NAVSEA NUWC Keyport Range Complex Extension operation areas. Taking into account implementation of monitoring and mitigation measures described in the Navy's *Range Operating Policies*

and Procedures Manual (ROP), the Navy estimates that various numbers of harbor porpoise (*Phocoena phocoena*), northern fur seals (*Callorhinus ursinus*), California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), and harbor seals (*Phoca vitulina*) would be taken by Level B harassment, including temporary threshold shift (TTS) in hearing sensitivities of harbor seals.

Proposed Monitoring and Mitigation Measures

The NUWC Keyport Range Complex Extension proposed a list of monitoring and mitigation measures to reduce potential adverse impacts to marine mammals.

The Navy states that mitigating potential impacts to the environment during RDT&E activities in the Keyport Range Complex Extension would be accomplished through strict adherence to the ROP, which would be followed for all Keyport range activities. The ROP is designed to protect the health and safety of the public and Navy personnel and equipment as well as to protect the marine environment. The policies and procedures address issues such as safety, development of approved run plans, range operation personnel responsibility, deficiency reporting, all facets of range activities, and the establishment of ''exclusion zones'' to ensure that there are no marine mammals within a prescribed area prior to the commencement of each in-water exercise within the Keyport Range Complex Extension. All range operators are trained by NOAA in marine mammal identification, and active acoustic activities are suspended or delayed if whales, dolphins, or porpoises (cetaceans) are observed within range areas. Table 11–1 of the application provides a summary of selected ROP sections and other range procedures which apply to current Keyport Range Complex activities at the Keyport Range Site, DBRC Site, and QUTR Site, and also apply to proposed activities within the current and proposed range site boundaries. The policies and procedures outlined in the ROP are continually being updated as new environmental and health and safety information becomes available.

In particular, the following marine mammal protection measures are implemented per ROP for current activities, and these would also apply for the proposed activities within the Keyport Range Complex Extension:

(1) Range activities shall be conducted in such a way as to ensure marine mammals are not harassed or harmed by human-caused events.

(2) Marine mammal observers are on board ship during range activities. All range personnel shall be trained in marine mammal recognition. Marine mammal observer training is normally conducted by qualified organizations such as NOAA/National Marine Mammal Lab (NMML) on an as needed basis.

(3) Vessels on a range use safety lookouts during all hours of range activities. Lookout duties include looking for any and all objects in the water, including marine mammals. These lookouts are not necessarily looking only for marine mammals. They have other duties while aboard. All sightings are reported to the Range Officer in charge of overseeing the activity.

(4) Visual surveillance shall be accomplished just prior to all in-water exercises. This surveillance shall ensure that no marine mammals are visible within the boundaries of the area within which the test unit is expected to be operating. Surveillance shall include, as a minimum, monitoring from all participating surface craft and, where available, adjacent shore sites.

(5) The Navy shall postpone activities until cetaceans leave the project area. When cetaceans have been sighted in an area, all range participants increase vigilance and take reasonable and practicable actions to avoid collisions and activities that may result in close interaction of naval assets and marine mammals. Actions may include changing speed and/or direction and are dictated by environmental and other conditions (e.g., safety, weather).

(6) An ''exclusion zone'' shall be established and surveillance will be conducted to ensure that there are no marine mammals within this exclusion zone prior to the commencement of each in-water exercise. For cetaceans, the exclusion zone must be at least as large as the entire area within which the test unit may operate, and must extend at least 1,000 yards (914.4 m) from the intended track of the test unit. For pinnipeds, the exclusion zone extends out 100 yards (91 m) from the intended track of the test unit.

(7) Vessels approach within 100 yards (91 m) of marine mammals shall be followed to the extent practicable considering human and vessel safety priorities. All Navy vessels and aircraft, including helicopters, are expected to comply with this directive. This includes marine mammals hauled-out on islands, rocks, and other areas such as buoys.

(8) In the event of a collision between a Navy vessel and a marine mammal, NUWC Keyport activities will notify the Navy chain of Command, which would result in notification to NMFS.

(9) Passive acoustic monitoring shall be utilized to detect marine mammals in the area before and during activities, especially when visibility is reduced.

(10) Procedures for reporting marine mammal sightings on the Keyport Range Complex shall be promulgated, and sightings shall be entered into the Range Operating System and forwarded to NOAA/NMML Platforms of Opportunity Program.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the request will be considered by NMFS in developing, if appropriate, regulations governing the incidental take of marine mammals and issuance of letters of authorization.

Dated: June 27, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–15155 Filed 7–2–08; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Information Collection Requirements for Sound Levels of Toy Caps

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The information collection requirements in a Commission Product Safety Commission (CPSC or Commission) toy cap rule have been approved by the Office of Management and Budget (OMB) under OMB control number 3041–0080. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission now requests comments on a proposed extension of approval of those information collection requirements for a period of three years from the date of approval by the OMB.

A regulation codified at 16 CFR 1500.18(a)(5) bans toy caps producing peak sound levels at or above 138 decibels (dB). Another regulation codified at 16 CFR 1500.86(a)(6) exempts toy caps producing sound levels between 138 and 158 dB from the banning rule if they bear a specified warning label and if firms intending to distribute such caps: (1) Notify the

Commission of their intent to distribute such caps; (2) participate in a program to develop toy caps producing sound levels below 138 dB; and (3) report quarterly to the Commission concerning the status of their programs to develop caps with reduced sound levels. The Commission wishes to obtain current and periodically updated information from all manufacturers concerning the status of programs to reduce sound levels of toy caps. The Commission will use this information to monitor industry efforts to reduce the sound levels of toy caps, and to ascertain which firms are currently manufacturing or importing toy caps with peak sound levels between 138 and 158 db.

The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than September 2, 2008.

ADDRESSES: Written comments should be captioned ''Information Collection Requirements for Sound Levels of Toy Caps'' and e-mailed to the Office of the Secretary at *cpsc-os@cpsc.gov.* Comments may also be sent by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7671 or by e-mail to *lglatz@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

The Commission staff estimates that there are ten firms required to annually submit the required information. The staff further estimates that the average number of hours per respondent is four per year, for a total of 40 hours of annual burden. The estimated total annual cost to respondents is approximately $1,002 based on a mean hourly wage of $25.04 for a first line office manager (based on NAICS 339000 Miscellaneous Manufacturing, Bureau of Labor Statistics, May 2007) ($25.04 × 40 hours).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
—Whether the estimated burden of the proposed collection of information is accurate;
—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: June 27, 2008.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E8–15162 Filed 7–2–08; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Notification Requirements for Coal and Woodburning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The information collection requirements in a Consumer Product Safety Commission (CPSC or Commission) coal and woodburning appliance rule have been approved by the Office of Management and Budget (OMB) under OMB control number 3041–0040. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission now requests comments on a proposed extension of approval of those information collection requirements for a period of three years from the date of approval by the OMB.

The rule, codified at 16 CFR Part 1406, requires manufacturers and importers of certain coal and woodburning appliances to provide safety information to consumers on labels and instructions and an explanation of how certain clearance distances in those labels and instructions were determined. The requirements to provide copies of labels and instructions to the Commission have been in effect for stoves manufactured or imported since October 17, 1983, or May 16, 1984, for stoves introduced into United States commerce after May 16, 1984, regardless of the date of manufacture. For this reason, the information burden imposed by this rule is limited to manufacturers and importers introducing new products or models, or making changes to labels, instructions, or information previously provided to the Commission. The purposes of the reporting requirements in Part 1406 are to reduce risks of injuries from fires associated with the installation, operation, and maintenance of the appliances that are subject to the rule, and to assist the Commission in determining the extent to which manufacturers and importers comply with the requirements in Part 1406. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than September 2, 2008.

ADDRESSES: Written comments should be captioned ''Notification Requirements for Coal and Wood Burning Stoves'' and e-mailed to the Office of the Secretary at *cpsc-os@cpsc.gov.* Comments may also be sent by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7671 or by e-mail to *lglatz@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

The CPSC staff estimates that existing manufacturers who are subject to the information collection requirements may introduce up to 15 new models between August 2005 and August 2008, or approximately 5 new models per year. No new manufacturers are expected to begin marketing in the United States. The staff further estimates that the average number of hours per respondent is three hours per year, for a total of about 15 hours of annual burden for all respondents (5 × 3 = 15). The estimated annual cost to respondents is approximately $77.34 for each new model introduced based on a mean hourly wage of $25.78 for a first

line office manager (based on NAICS 33520 Household Appliance Manufacturing, Bureau of Labor Statistics, May 2007) ($25.78 × 3 hours). The total annual cost to respondents is approximately $387 for 5 new models ($77.34 × 5).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
—Whether the estimated burden of the proposed collection of information is accurate;
—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: June 27, 2008.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E8–15171 Filed 7–2–08; 8:45 am]

BILLING CODE 6355–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting.

DATE & TIME: Monday, July 21, 2008, 10 a.m.–3 p.m. (MST).

PLACE: J. W. Marriott Desert Ridge, 5350 E Marriott Drive, Phoenix, Arizona 85054, (480) 293–5000.

AGENDA: The Commissioners will consider the following items: Commissioners will consider and vote on whether to modify Advisory Opinion 07–003–A regarding Maintenance of Effort (MOE) funding, pursuant to HAVA Section 254(a)(7). Commissioners will consider and vote on a Proposed Replacement Advisory Opinion 07–003–B Regarding Maintenance of Effort. Commissioners will consider the of Adoption of EAC Laboratory Accreditation Program Manual; Commissioners will consider a Draft Policy for Joint Partnership Task Force of EAC and State Election Officials Regarding Spending of HAVA Funds; Commissioners will consider a Draft Policy for Notice and Public Comment; Commissioners will consider Draft Changes to the Charter of the EAC Technical Guidelines Development Committee. Commissioners will consider whether to update the Louisiana state instructions, the Michigan state instructions and the Vermont state instructions on the national voter registration form. Commissioners will receive a briefing regarding a HAVA State Spending Report to Congress; Commissioners will receive a Briefing on Comments Received on the Draft EAC Guidance to States Regarding Updates to the State Plans; Commissioners will receive a briefing regarding Board of Advisors Resolution 2008–3 Concerning EAC Certification of Voting Systems; Commissioners will receive a Presentation on the EAC Laboratory Accreditation Program Manual. The Commission will consider other administrative matters. Commissioners will hold a workshop discussion on Preparing for Election Day 2008 and Contingency Planning.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 08–1408 Filed 7–1–08; 9:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection package with the Office of Management and Budget (OMB) concerning information ''Technology Partnerships Ombudsmen Reporting Requirements.'' The Technology Transfer Ombudsman appointed at each DOE National Laboratory must submit reports to DOE on the number and nature of complaints and disputes raised by outside organizations regarding the policies and actions of each laboratory with respect to technology transfer partnerships, including Cooperative Research and Development Agreements, patents, and technology licensing. The reports must also include an assessment of the ombudsman's resolution to the disputes. Comments are invited on: (a) Whether the extended 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, 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 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.

DATES: Comments regarding this proposed information collection must be received on or before September 2, 2008. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to: Kathleen M. Binder, GC–12, Director, Office of Dispute Resolution, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; or by fax at 202–586–7400 or by e-mail at *kathleen.binder@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kathleen M. Binder at the address listed in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: This package contains: (1) *OMB No.* 1910–5118; (2) *Package Title:* ''Technology Partnerships Ombudsmen Reporting Requirements''; (3) *Type of Review:* Renewal; (4) *Purpose:* The information collected will be used to determine whether the Technology Partnerships Ombudsmen are properly helping to resolve complaints from outside organizations regarding laboratory policies and actions with respect to technology partnerships; (5) *Respondents:* 22; (6) *Estimated Number of Burden Hours:* 50.

Statutory Authority: Public Law 106–404, Technology Transfer Commercialization Act of 2000.

Issued in Washington, DC on June 26, 2008.

Kathleen M. Binder,

Director, Office of Dispute Resolution, Office of General Counsel.

[FR Doc. E8–15138 Filed 7–2–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC08–588–001, FERC–588]

Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review

June 26, 2008.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and reinstatement of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received a comment in response to an earlier **Federal Register** notice of February 28, 2008 (73 FR 10747–10748) and has responded to their comments in its submission to OMB.

DATES: Comments on the collection of information are due by July 31, 2008.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. (1902–0144) as a point of reference. The Desk Officer may be reached by telephone at (202) 395–7345. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–34, Attention: Michael Miller, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC08–588–001. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at (*http://www.ferc.gov/help/submission-guide/electronic-media.asp*). To file the document electronically, access the Commission's website and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. For user assistance, contact *fercolinesupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. *Collection of Information:* FERC–588 ''Emergency Natural Gas Transportation, Sale and Exchange Transactions.''

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0144.

The Commission is now requesting that OMB approve with a three-year extension of the expiration date, with no changes to the existing collection. The information filed with the Commission is mandatory.

4. *Necessity of the Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions 7(c) of the Natural Gas Act (NGA) (Pub. L. 75–688) (15 U.S.C. 717–717w) and provisions of the Natural Gas Policy Act of 1978 (NGPA), (15 U.S.C. 3301–3432). Under the NGA, a natural gas company must obtain Commission approval to engage in the transportation, sale or exchange of natural gas in interstate commerce. However, section 7(c) exempts from certificate requirements ''temporary acts or operations for which the issuance of a certificate will not be required in the public interest.'' The NGPA also provides for non-certificated interstate transactions involving intrastate pipelines and local distribution companies.

A temporary operation, or emergency, is defined as any situation in which an actual or expected shortage of gas supply would require an interstate pipeline company, intrastate pipeline or local distribution company, or Hinshaw pipeline to curtail deliveries of gas or provide less than the projected level of service to the customer. The natural gas companies file the necessary information with the Commission so that it may determine if the transaction/operation qualifies for exemption. A report within forty-eight hours of the commencement of the transportation, sale or exchange, a request to extend the sixty-day term of the emergency transportation, if needed, and a termination report are required. The data required to be filed for the forty-eight hour report is specified by 18 CFR 284.270 of the Commission's regulations.

5. *Respondent Description:* The respondent universe currently comprises 8 companies (on average per year) subject to the Commission's jurisdiction.

6. *Estimated Burden:* 80 total hours, 8 respondents (average per year), 1 response per respondent, and 10 hours per response (average).

7. *Estimated Cost Burden to respondents:* 80 hours/2080 hours per years × $126,384 per year = $4,860.

Statutory Authority: Sections 7(c) of the Natural Gas Act (NGA), Pub. L. 75–688 (15 U.S.C. 717–717w) and the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432).

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15166 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–226]

Union Electric Company, DBA Ameren/UE; Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests

June 24, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No.:* 459–226.

c. *Date Filed:* June 12, 2008.

d. *Applicant:* Union Electric Company, dba AmerenUE.

e. *Name of Project:* Osage Project.

f. *Location:* The development would be at Point Royale Condominiums near mile marker 31.2+3.3 on the Big Niangua Arm of the Lake of the Ozarks, in Camden County, Missouri.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Jeff Green, Shoreline Supervisor, Ameren/UE, P.O. Box 993, Lake Ozark, MO 65049, (573) 365–9214.

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High, Telephone (202) 502–8674, and e-mail: *Shana.High@ferc.gov*

j. *Deadline for filing comments, motions to intervene, and protests:* July 25, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–459–226) on any comments or motions filed. 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 e-filings.

k. *Description of Request:* Union Electric Company, dba Ameren/UE (licensee) filed an application seeking Commission approval to grant permission to Lake Development, LLC to construct 12 multi-slip boat docks on the Big Niangua Arm of the Lake of the Ozarks. The 12 boat docks would include a total of 384 boat slips and 36 personal watercraft slips, and would serve Point Royale Condominiums. No dredging, fuel-dispensing, or sewage-pumping facilities are proposed.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3372 or e-mail *FERCOnlineSupport@ferc.gov;* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15085 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12743–001]

Douglas County, Oregon; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

June 24, 2008.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 12743–001.

c. *Date Filed:* May 23, 2008.

d. *Submitted By:* Douglas County, Oregon.

e. *Name of Project:* Douglas County Wave & Tidal Energy Project.

f. *Location:* On the south jetty at the mouth of the Umpqua River near the town of Winchester Bay, Oregon. South jetty is owned and maintained by the United States Army Corps of Engineers.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Ronald S. Yockim, 430 SE Main, P.O. Box 2456, Roseburg, Oregon, 97470; (541) 957–5900; e-mail—*ryockim@cmspan.net.*

i. *FERC Contact:* David Turner at (202) 502–6091; or e-mail at *david.turner@ferc.gov.*

j. Douglas County, Oregon filed its request to use the Traditional Licensing Process on May 23, 2008. Douglas County, Oregon provided public notice of its request on May 28, 2008. In a letter dated June 24, 2008, the Director of the Office of Energy Projects approved Douglas County, Oregon's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Washington State Historic Preservation Officer, as required by Section 106, National Historical

Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Douglas County, Oregon filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15084 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI08–8–000]

Nushagak Electric and Telephone Cooperative; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

June 24, 2008.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No.:* DI08–8–000.

c. *Date Filed:* June 6, 2008.

d. *Applicant:* Nushagak Electric and Telephone Cooperative.

e. *Name of Project:* Grant Lake Hydroelectric Project.

f. *Location:* The proposed Grant Lake Hydroelectric Project will be located on Grant Creek and Grant Lake, near the town of Dillingham, Dillingham Borough, Alaska, affecting T. 4 S, R. 54–55 W, sec. 28, 29, 32, and 33, Seward Meridian.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Frank Corbin, CEO/General Manager, P.O. Box 350, 557 Kenny Wren Road, Dillingham, AK 99576; *telephone:* (907) 842–6315; *Fax:* (907) 842–2780; *e-mail: www.fcorbin@nushagak.coop.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or e-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* July 25, 2008.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and/or interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Please include the docket number (DI08–8–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Grant Lake Hydropower Project will include: (1) A proposed 52,500-acre-feet storage reservoir; (2) a concrete dam located at the outlet of Grant Lake; (3) a 20-foot-deep, 1-mile-long diversion canal extending from the dam to a rock fill dike and intake; (4) a 6,600-foot-long, 544-foot-diameter lake-tap intake pipeline connecting at a surge tank to a 3,100-foot-long, 5-foot-diameter steel penstock; (5) a steel-framed powerhouse, containing two 1,350-kW turbine/generators; (6) a 45-to-65-mile-long buried transmission line; and (7) appurtenant facilities. The proposed project will not be connected to an interstate grid, and will not occupy any tribal or Federal lands.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3372, or TTY, contact (202) 502–8659.

m. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15082 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI08–7–000]

Nushagak Electric and Telephone Cooperative; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

June 24, 2008.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No.:* DI08–7–000.

c. *Date Filed:* June 6, 2008.

d. *Applicant:* Nushagak Electric and Telephone Cooperative.

e. *Name of Project:* Lake Elva Hydroelectric Project.

f. *Location:* The proposed Lake Elva Hydroelectric Project will be located on Elva Creek and Lake Elva, near the town of Dillingham, Dillingham Borough, Alaska, affecting T. 6–7 S., R. 58 W, sec. 1, 2, 7, 11, and 12, Seward Meridian.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Frank Corbin, CEO/General Manager, P. O. Box 350, 557 Kenny Wren Road, Dillingham, AK 99576; Telephone: (907) 842–6315; Fax: (907) 842–2780; E-mail: *http://www.fcorbin@nushagak.coop*.

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or E-mail address: *henry.ecton@ferc.gov*.

j. *Deadline for filing comments, protests, and/or motions:* July 25, 2008.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and/or interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Please include the docket number (DI08–7–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Lake Elva Hydropower Project will include: (1) A proposed 29,000-acre-feet storage reservoir; (2) a 120-foot-high, 625-foot-long rock-fill dam on Elva Creek; (3) a 4,100-foot-long, 4-foot-diameter lake-tap intake pipeline, connecting at a surge tank to a 3,200-foot-long, 3-to-3.5-foot-diameter penstock; (4) a 20-foot-wide, 80-foot-long, 20-foot-high powerhouse, containing two 750-kW turbine/generators; (5) a 33-mile-long buried transmission line; and (6) appurtenant facilities. The proposed project will not be connected to an interstate grid, and will not occupy any tribal or federal lands.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link; select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3372, or TTY, contact (202) 502–8659.

m. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15086 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1117–000]

DC Energy Southwest, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 25, 2008.

This is a supplemental notice in the above-referenced proceeding of DC Energy Southwest, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing interventions and protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is July 15, 2008.

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-referenced proceeding 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15092 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–427–000]

Florida Gas Transmission Company, LLC; Notice of Request Under Blanket Authorization

June 25, 2008.

Take notice that on June 18, 2008, Florida Gas Transmission Company, LLC (FGT), 5444 Westheimer Road, Houston, Texas 77056, filed in Docket No. CP08–427–000, a prior notice request pursuant to sections 157.205 and 157.212 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to construct, own, and operate an interconnect with Golden Pass Pipeline LP (GPPL), located in Orange County, Texas, to receive revaporized liquefied natural gas (LNG), all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, FGT proposes the installation of a 12-inch tap and valve, approximately 40 feet of 16-inch diameter connecting pipe, electronic flow measurement equipment, a gas chromatograph, and an instrument and electrical building (GPPL Interconnect). FGT estimates the cost of construction to be $484,065. FGT states that the proposed GPPL Meter Station will be designed and constructed for flow capability of up to 250 MMcf/d. FGT asserts that the new GPPL Interconnect will provide FGT with the ability to receive revaporized LNG from the Golden Pass LNG terminal, through the GPPL pipeline.

Any questions regarding the application should be directed to Stephen Veatch, Senior Director of Certificates & Tariffs, Florida Gas Transmission Company, LLC, 5444 Westheimer Road, Houston, Texas 77056, at (713) 989–2024, fax (713) 989–1158, or by e-mail *stephen.veatch@SUG.com*.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15090 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

June 26, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–2369–005.

Applicants: Alliance for Cooperative Energy Services.

Description: The Alliance for Cooperative Energy Services Power Marketing, LLC submits an Updated Market Analysis and Request for Category 1 Status.

Filed Date: 06/23/2008.

Accession Number: 20080625–0052.

Comment Date: 5 p.m. Eastern Time on Monday, July 14, 2008.

Docket Numbers: ER01–1011–016; ER01–1335–014; ER01–642–012; ER07–312–004.

Applicants: Redbud Energy LP; Magnolia Energy LP; CottonWood Energy Company LP; Dogwood Energy LLC.

Description: Cottonwood Energy Co, LP et al submits Second Revised Sheet 1 et al to FERC Electric Tariff, First Revised Volume 1.

Filed Date: 06/23/2008.

Accession Number: 20080625–0051.

Comment Date: 5 p.m. Eastern Time on Monday, July 14, 2008.

Docket Numbers: ER02–2339–003; ER08–274–003.

Applicants: Citadel Energy Products LLC; Citadel Energy Strategies, LLC.

Description: Citadel Energy Products, LLC and Citadel Energy Strategies, LLC submits an updated market power analysis and rate schedule revisions required by Order 697 and 697–A.

Filed Date: 06/23/2008.

Accession Number: 20080624–0027.

Comment Date: 5 p.m. Eastern Time on Monday, July 14, 2008.

Docket Numbers: ER08–1153–000; ER08–1154–000; ER08–1155–000; ER08–1156–000; ER08–1157–000; ER08–1158–000.

Applicants: Bayonne Plant Holding, L.L.C.; Camden Plant Holding, L.L.C.; Dartmouth Power Associates Limited Partnership; Lowell Cogeneration Company Limited Part; Newark Bay Cogeneration Partnership, L.P; York Generation Company LLC.

Description: Bayonne Plant Holdings, LLC et al submits request to amend market-based rate tariffs to permit sales of ancillary services.

Filed Date: 06/23/2008.

Accession Number: 20080625–0048.

Comment Date: 5 p.m. Eastern Time on Monday, July 14, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the

FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–15097 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 26, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP96–359–037.

Applicants: Transcontinental Gas Pipe Line Corp.

Description: Transcontinental Gas Pipeline Corporation submits an executed service agreement containing a negotiated rate which pertains to Rate Schedule FT firm transportation service under Transco's Momentum Expansion Project.

Filed Date: 06/13/2008.

Accession Number: 20080616–0082.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 1, 2008.

Docket Numbers: RP05–422–027.

Applicants: El Paso Natural Gas Company.

Description: Supplemental Refund Report to its January 17, 2008 Original Refund Report of El Paso Natural Gas Company.

Filed Date: 06/25/2008.

Accession Number: 20080625–5062.

Comment Date: 5 p.m. Eastern Time on Monday, July 7, 2008.

Docket Numbers: RP08–123–002.

Applicants: Central Kentucky Transmission Corporation.

Description: NiSource Gas Transmission & Storage submits Second Revised Sheet 35 *et al.* to FERC Gas Tariff, Second Revised Volume 1, to become effective 8/1/08.

Filed Date: 06/25/2008.

Accession Number: 20080626–0060.

Comment Date: 5 p.m. Eastern Time on Monday, July 7, 2008.

Docket Numbers: RP08–125–002.

Applicants: Crossroads Pipeline Company.

Description: Crossroads Pipeline Company submits Third Revised Sheet 50 *et al.* for inclusion in FERC Gas Tariff, First Revised Volume 1, to become effective 8/1/08.

Filed Date: 06/25/2008.

Accession Number: 20080626–0059.

Comment Date: 5 p.m. Eastern Time on Monday, July 7, 2008.

Docket Numbers: RP08–420–000.

Applicants: Millennium Pipeline Company, L.L.C.

Description: Millennium Pipeline Company, L.L.C. submits non-conforming firm transportation service and negotiated rate agreements with Consolidated Edison Company of New York, Inc. *et al.*

Filed Date: 06/23/2008.

Accession Number: 20080624–0167.

Comment Date: 5 p.m. Eastern Time on Monday, July 7, 2008.

Docket Numbers: RP08–421–000.

Applicants: Petal Gas Storage, L.L.C.

Description: Petal Gas Storage, L.L.C. submits its FERC Gas Tariff Original Volume 1, to become effective 7/23/08.

Filed Date: 06/24/2008.

Accession Number: 20080625–0090.

Comment Date: 5 p.m. Eastern Time on Monday, July 7, 2008.

Docket Numbers: RP08–422–000.

Applicants: Eastern Shore Natural Gas Company.

Description: Eastern Shore Natural Gas Company submits Twenty-First Revised Sheet 4 et al. to FERC Gas Tariff, Second Revised Volume 1, to become effective 7/1/08.

Filed Date: 06/25/2008.

Accession Number: 20080625–0185.

Comment Date: 5 p.m. Eastern Time on Monday, July 7, 2008.

Docket Numbers: CP98–150–011.

Applicants: Millennium Pipeline Company, L.L.C.

Description: Millennium Pipeline Company, L.L.C., submits Original Sheet 0, *et al.,* to FERC Gas Tariff, Original Volume No. 1, to become effective 11/1/08.

Filed Date: 06/23/2008.

Accession Number: 20080624–0172.

Comment Date: 5 p.m. Eastern Time on Friday, July 11, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–15098 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

June 24, 2008.

	Docket No.
Invenergy Nelson, LLC	EG08–42–000
Turkey Track Wind Energy LLC	EG08–43–000
Starwood Power-Midway, LLC	EG08–44–000
Noble Wethersfield Windpark, LLC	EG08–45–000
Noble Bellmont Windpark, LLC	EG08–46–000
Noble Chateaugay Windpark, LLC	EG08–47–000
Standard Binghamton LLC	EG08–48–000
NRG Southaven LLC	EG08–49–000
EFS Parlin Holdings LLC	EG08–50–000
Twin Cities Hydro LLC	EG08–51–000
North Allegheny Wind, LLC	EG08–52–000

Take notice that during the month of May 2008, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15083 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM07–16–000]

Filing Via the Internet; Guidelines for Electronic Filing of Index of Customer Reports Under 18 CFR 284.13(c)

June 25, 2008.

Pursuant to the provisions of Commission Order No. 703, issued November 15, 2007,[1] the Quarterly Index of Customer filings under 18 CFR 284.13(c) are now eligible for efiling. Take notice that the Commission Staff is modifying the efiling menu for submission via efiling of Index of Customer tab-delimited files.

Transmission providers submitting Index of Customer reports due July 1, 2008, and thereafter via efiling must make selections from the efiling menu in the following order:

Column 1 (How is filing to be directed?): Gas.

Column 2 (Kind of filing): Report/Form—No Docket Number.

Column 3 (Filing type): Index of Customer.

Due to certain processing actions of these submissions, there may be a slight delay in posting them on the Commission's eLibrary system. Filers will receive a Confirmation of Receipt e-mail as notification that their Index of Customer report was filed. Index of Customer report filings submitted under any menu option other than those described above will be rejected for resubmission under the correct menu choice.

The instructions for preparing the Index of Customers tab-delimited file in electronic format are on the Commission's Web site at: *http://www.ferc.gov/docs-filing/eforms.asp#549b*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15088 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

[1] *Filing Via the Internet*, Order No. 703, 72 FR 65659 (November 23, 2007), FERC Stats. & Regs. ¶ 61,171 ¶ 31,259 (2007) (Order No. 703).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1126–000, etc.]

Georgia-Pacific Brewton LLC, et al.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 25, 2008.

	Docket No.
Georgia-Pacific Brewton, LLC	ER08–1126–000
GP Big Island, LLC	ER08–1127–000
Brunswick Cellulose, Inc.	ER08–1128–000
Georgia-Pacific Cedar Springs, LLC	ER08–1129–000
Georgia-Pacific Consumer Operations LLC, a/k/a Palatka	ER08–1130–000
Georgia-Pacific Consumer Operations LLC, a/k/a Port Hudson	ER08–1131–000
Georgia-Pacific Consumer Products LP, a/k/a Green Bay West	ER08–1132–000
Georgia-Pacific Consumer Products LP, a/k/a Muskogee	ER08–1133–000
Georgia-Pacific Consumer Products LP, a/k/a Naheola	ER08–1134–000
Georgia-Pacific Consumer Products LP, a/k/a Savannah	ER08–1135–000
Georgia-Pacific LLC, a/k/a Crossett	ER08–1136–000
Georgia-Pacific Monticello LLC	ER08–1137–000
Georgia-Pacific Toledo LLC	ER08–1138–000
Lear River Cellulose, LLC	ER08–1139–000

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Georgia-Pacific Brewton LLC, *et al.*'s, application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicants.

Notice is hereby given that the deadline for filing interventions and protests with regard to the applicants' request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is July 15, 2008.

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-referenced proceeding 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15093 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–114–000]

Great Bay Power Marketing, Inc.; Notice of Issuance of Order

June 25, 2008.

Great Bay Power Marketing, Inc. (GBPM) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of capacity and energy at market-based rates. GBPM also requested waivers of various Commission regulations. In particular, GBPM requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by GBPM.

On December 3, 2002, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-South, granted the requests for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by GBPM, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is July 8, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, GBPM is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of GBPM, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of GBPM's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15091 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD08–5–000]

Compliance Workshop; Second and Final Notice of Workshop on Regulatory Compliance

June 25, 2008.

As noticed in the ''First Notice of Workshop on Regulatory Compliance,'' the staff of the Federal Energy Regulatory Commission (Commission) will hold a workshop on July 8, 2008, in the Commission Meeting Room at the Commission's Washington, DC headquarters, 888 First Street, NE. Please note that the starting and ending times of the conference have been changed to provide further opportunity for discussion. The workshop will now begin at 9 a.m. and end at 1 p.m. Eastern Daylight time. This workshop will provide a forum for interested participants to share perspectives and information on federal energy regulatory compliance. The workshop will focus, in particular, on the elements of a sound compliance program. One or more of the Commissioners may attend the workshop.

As indicated in the previous notice, issued May 21, 2008, this notice provides more information on the format of the workshop and the topics to be explored. For this information, please see the attached Agenda and the detailed panel descriptions below.

The workshop will consist of two panels, which will be introduced and moderated by Commission staff. The first panel, entitled ''Designing and Developing a Compliance Program,'' will include executives from three companies, two that are currently in the process of designing FERC-related compliance programs for their respective companies and one who is from a consulting firm that specializes in assisting energy firms to develop effective compliance programs. These panelists' presentations may address the following topics:

- Identifying and prioritizing risks;
- Integrating FERC compliance with other regulatory requirements (e.g., Securities and Exchange Commission, Commodity Futures Trading Commission, Department of Justice, and Federal Trade Commission);
- Developing an appropriate organizational structure that ensures the independence of compliance personnel;
- Tying management and employee incentives/compensation to achieving certain compliance targets;
- Developing a training program and manuals that address the applicable Commission requirements;
- Designing recordkeeping and retention policies;
- Establishing accountability/reporting systems;
- Committing adequate resources to compliance (i.e. funding and personnel); and,
- Other topics as identified by the panelists or the audience.

The second panel, entitled ''Implementing and Maintaining a Compliance Program,'' will include compliance officers from three companies that represent the gas, electric, and financial industries. These compliance officers have been involved in the implementation and maintenance of FERC-related compliance programs at

their respective companies. These panelists' presentations may address the following topics:

- Internal reporting of possible non-compliance (*e.g.*, internal Hotline);
- Leadership and commitment by senior management;
- Periodic internal audits, compliance monitoring, and reporting to the Board;
- Ongoing employee training;
- Ongoing monitoring and communication of regulatory changes to line personnel;
- Ensuring that all contracts are subject to an organization's internal legal review and approval process;
- Periodic assessment of the organization's compliance policies and training materials;
- Promoting effective communication between operations and compliance personnel;
- Self-reporting potential violations; and,
- Other topics as identified by the panelists or the audience.

Each panel will be immediately followed by an open mike discussion, during which those in attendance may pose questions directly to the panelists or comment on the presentations via a microphone in the Commission Meeting Room. Audience members are also encouraged to provide additional information to augment the panelists' presentations.

As stated previously, this workshop will neither be web-cast nor transcribed. All interested parties are invited, and registration is not required to attend.

Commission 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 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

Kimberly D. Bose,

Secretary.

Agenda

9–9:10 a.m. *Opening Remarks*

9:10–10:30 a.m. *Designing/Developing a Compliance Program*

Howard Friedman, Senior Manager, Regulatory & Capital Markets Consulting Energy & Resources, Deloitte & Touche LLP.

Michael Berry, Compliance Manager, Integrated Supply and Trading, BP North America.

Jeff Guldner, Vice President, Rates and Regulation, Arizona Public Service Company.

10:30–11 a.m. *Open Mike Discussion: Comments and Questions from the Audience*

11–11:10 a.m. *Break*

11:10–12:30 p.m. *Implementing and Maintaining a Compliance Program*

Kendal Bowman, Associate General Counsel, Progress Energy.

Steve Phillips, Director, Compliance and Ethics, E.ON U.S. LLC.

Ike Gibbs, Compliance Director and Assistant General Counsel, J.P. Morgan.

12:30–1 p.m. *Open Mike Discussion: Comments and Questions from the Audience*

[FR Doc. E8–15094 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR07–9–002]

Bay Gas Storage Company, Ltd.; Notice of Refund Report

June 24, 2008.

Take notice that on June 12, 2008, Bay Gas Storage Company, Ltd. (Bay Gas) filed its Refund Report pursuant to Article VI of Bay Gas' Stipulation and Agreement of Settlement, dated April 21, 2008. Bay Gas states that the required refunds were disbursed to the affected customers on May 29, 2008.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 2, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15081 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–31–000]

Transcontinental Gas Pipe Line Corporation; Notice of Site Visit

June 25, 2008.

On July 9, 2008, staff of the Federal Energy Regulatory Commission will conduct a site visit of the Transcontinental Gas Pipe Line Corporation's proposed Sentinel Expansion Project—Downingtown Mainline ''A'' Replacement. The purpose of this site visit is to review the residential areas potentially affected by the proposed replacement of mainline ''A'' and to look at potential alternatives.

Interested parties may accompany staff during its visit and should meet at 10 a.m. (EDT) at: Target, Western Parking Lot closest to North Pottstown Pike, 201 Sunrise Boulevard, Exton, PA 19341, FERC Contact Phone Number (day of the site visit): (202) 502–6352.

Those planning to accompany staff during its visit must provide their own transportation.

For additional information, please contact the Commission's Office of External Affairs at 1–866–208–FERC.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–15089 Filed 7–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

White River Minimum Flows—Proposed Determination of Federal and Non-Federal Hydropower Impacts

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: Section 132 of Public Law 109–103 (2005) authorized and directed the Secretary of the Army to implement alternatives BS–3 and NF–7, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004.

The law states that the Administrator, Southwestern Power Administration (Southwestern), shall determine any impacts on electric energy and capacity generated at Federal Energy Regulatory Commission (FERC) Project No. 2221 caused by the storage reallocation at Bull Shoals Lake. Further, the licensee of Project No. 2221 shall be fully compensated by the Corps of Engineers for those impacts on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

The law also states that losses to the Federal hydropower purpose of the Bull Shoals and Norfork Projects shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Further, such reduction shall be determined by the Administrator of Southwestern on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

Southwestern's draft determination was published by **Federal Register** Notice (73 FR 6717) dated February 5, 2008. Written comments were invited through March 6, 2008. All public comments received were considered, and Southwestern's draft determination was revised as necessary to incorporate the public comments. Since there were significant changes to Southwestern's draft determination, due in part to public comments received supporting higher energy values, Southwestern is publishing a proposed determination for public review and comment prior to its final determination.

Assuming a January 1, 2011, date of implementation for the White River Minimum Flows project, Southwestern's proposed determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity at FERC Project No. 2221 of $33,935,100. Southwestern's proposed determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity for Federal hydropower of $86,712,100.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end on August 4, 2008.

ADDRESSES: Written comments on Southwestern's proposed determination are due on or before August 4, 2008. Comments should be submitted to George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. George Robbins, Director, Division of Resources and Rates, (918) 595–6680, *george.robbins@swpa.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Originally established by Secretarial Order No. 1865 dated August 31, 1943, Southwestern is an agency within the U.S. Department of Energy which was created by an Act of the U.S. Congress, entitled the Department of Energy Organization Act, Public Law 95–91 (1977). Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana.

Southwestern developed projected energy and capacity losses for FERC Project No. 2221 and the Bull Shoals and Norfork projects, including additional losses related to the reallocation for minimum flows as appropriate. Currently, the calculated compensation due to the licensee of FERC Project No. 2221 is $33,935,100, and the calculated credit due to Federal hydropower is $86,712,100. The values were calculated on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity assuming an implementation date of January 1, 2011, for the White River Minimum Flows project. The final calculation will depend on the official date of implementation as specified by the Corps of Engineers and the value of the specified parameters in effect at that time.

FERC Project No. 2221, the non-Federal Ozark Beach hydroelectric project, will be directly affected by the minimum flow plan. The implementation of the authorized plan will result in a reduction of the amount of gross head (headwater elevation minus the tailwater elevation) available for generation at the non-Federal project at Ozark Beach. The reduction in gross head will result in an annual energy loss of 6,029 megawatt-hours (MWh) of on-peak energy and 2,969 MWh of off-peak energy, or an annual total energy loss of 8,998 MWh. Also associated with the loss of gross head, there will be a capacity loss of 3.00 MW at the project.

Section 132 of Public Law 109–103 (2005) authorized alternative BS–3 at Bull Shoals, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004. Under the authorized plan for the Bull Shoals project, five feet of storage for minimum flows will be reallocated from the flood control pool with provisions to provide a portion of the reallocated storage for hydropower's use to maintain the yield of the current hydropower storage. The current seasonal pool plan will be superimposed on the new top of conservation pool. As a result, both the conservation and seasonal pool levels at Bull Shoals will be raised five feet. The additional downstream releases for minimum flows will be accomplished by generating with one of the main units at a low, inefficient rate. Since the current hydropower yield will be maintained, there will be no loss of marketable capacity or peaking energy at Bull Shoals. The energy loss, 23,855 MWh per year of off-peak energy, will be the result of making the required minimum downstream releases by generating energy at a much lower plant efficiency than normal generation. Since the energy that is produced from the minimum flow releases will be generated at a time when the energy is not needed to fulfill Federal peaking energy contracts, it is similar in value to the off-peak energy normally generated during flood control operations. Operating a main unit at the lower efficiency will also increase the average maintenance costs at the project by an estimated $68,000 per year.

Section 132 of Public Law 109–103 (2005) authorized alternative NF–7 at Norfork, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004. Under the authorized plan for the Norfork project, 3.5 feet of storage will be reallocated for minimum flows.

One-half of the storage for minimum flows will be reallocated from the flood control pool and the other half from hydropower storage. The reallocation portion from the flood control storage is similar to the storage reallocation at Bull Shoals in that the hydropower storage yield for that portion will be maintained and the existing seasonal pool plan will be superimposed on the new top of conservation pool. As a result, both the conservation and seasonal pool levels at Norfork will be raised 1.75 feet. Unlike Bull Shoals, all minimum flow releases at Norfork, whether from reallocated flood or hydropower storage, will be spilled through a siphon with no energy generated from the water. Although there is no marketable capacity loss associated with the flood control storage portion of the reallocation, there will be an off-peak energy loss. The portion of the reallocation from the hydropower storage will reduce the yield available to hydropower and will directly impact the marketable capacity and on-peak energy available at Norfork. The annual energy loss at Norfork associated with the reallocation will be 6,762 MWh of off-peak energy and 6,762 MWh of on-peak energy, for a total annual energy loss of 13,524 MWh. The marketable capacity loss will be 3.93 megawatts (MW).

II. Public Review and Comment Procedures

Opportunity is presented for interested parties to receive copies of the Proposed Determination Report detailing Southwestern's determination of the Federal and non-Federal hydropower impacts. If you desire a copy of the report, submit your request to Mr. George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, One West Third Street, Tulsa, OK 74103, (918) 595–6680, *george.robbins@swpa.gov.*

Written comments on Southwestern's proposed determination are due on or before August 4, 2008. Comments should be submitted to George Robbins, Director, Division of Resources and Rates, Southwestern, at the above-mentioned address for Southwestern's offices.

Southwestern will review and address the written comments, making any necessary changes to the proposed determination. The Administrator will publish the results of Southwestern's final determination in the **Federal Register** and will submit a report to the Corps of Engineers.

Dated: June 26, 2008.

Jon Worthington,

Administrator.

Comments on Southwestern's January 2008 Draft Determination

Southwestern received comments from four entities during the public comment period. All of the comments received were considered. The major comments, by categories, and Southwestern's responses thereto, included the following:

A. Energy Losses

1. *Comment.* ''We specifically question the applicability of the SUPER program to accurately model relatively small changes in actual conditions at Ozark Beach as opposed to overall macro level changes in an entire river basin.''

Response: SUPER was designed and programmed to simulate the operation of a multipurpose reservoir system. SUPER models the reservoir system for the entire period of record as it exists today and is operated under a specific operational scenario. The value in using SUPER is the ability to model various scenarios and to determine the relative differences in the results. The Corps has successfully used SUPER for much smaller changes in many water storage reallocation studies. Southwestern believes the combination of SUPER and Southwestern's spreadsheet model accurately captures the ''relatively small changes'' in conditions at Ozark Beach.

2. *Comment.* Southwestern's spreadsheet analysis of the SUPER output shows an average 3.3-foot difference in the Ozark Beach tailwater elevation between the base and minimum flow runs. The Bull Shoals pool level is being raised 5 feet. The 1.7-foot difference represents a 34% understatement in the results for Ozark Beach.

Response: It is not reasonable to assume that the Bull Shoals pool elevation will always be five feet higher after the minimum flows project is implemented. While five feet of flood control storage will be reallocated at Bull Shoals for minimum flows, any water stored in that reallocated storage will be released for minimum flow requirements. Those releases will be made whenever Southwestern is not generating at Bull Shoals Dam. As a result of those releases from the reallocated storage, the pool level will be drawn down on a regular basis and the reallocated storage will not typically be full. The desired downstream minimum flow releases are greater than the storage will yield. Therefore, the storage is frequently depleted. During the critical drought period, the pool level would be near pre minimum flow levels.

3. *Comment.* The non-Federal energy loss should be, as a minimum, the non-Federal licensee's computed value of 12,436 MWh.

Response: The non-Federal licensee's calculated energy loss was based on the assumption that the loss of head at Ozark Beach will be a constant five feet after minimum flows are implemented. That will not be the case. See Southwestern's response to Comment 2 above.

4. *Comment.* The commenter ''does not believe the SUPER program is accurately capturing the efficiency and energy gains due to the addition of new water wheels at Ozark Beach.'' The commenter compared the calculated generation in the spreadsheet model for the SUPER Base Run (with the new wheels) versus the calculated generation for the corresponding time period in the spreadsheet verification model (with the old wheels) and also with the non-Federal licensee's actual energy generation. The commenter also noted that there is only a 3.5% increase in generation while they believe it should show a 16% increase.

Response: The historical Table Rock outflows and Bull Shoals pool elevations are slightly different from the SUPER output because SUPER is modeling the reservoir system as it exists today, with all current water supply contracts and the current plan of operation. If the performance data for the old and new wheels are used with the same inflow data, a reasonable difference in generation is determined.

Southwestern performed the daily generation calculation for the SUPER Base Run with the performance data for the old wheels to verify the model with existing historical data. With the assumed generating efficiency for the old wheels of 75% and the assumed friction loss of one-half foot, there was a very strong correlation with historical generation at the project. The calculated average annual generation with the new wheels is about 17% higher than the calculated average annual generation with the old wheels. The historical data was used only to verify that Southwestern's spreadsheet model could reasonably predict the generation at Ozark Beach with the Table Rock outflows and Bull Shoals pool elevations as inputs.

The new wheels were used in both the base and alternative computations in order to determine the difference caused by the operation of Bull Shoals to meet the minimum flow requirements, not the increase from the installation of the

new wheels. The main use of SUPER is in comparing the relative differences between the two operational scenarios, not in trying to reproduce history.

5. *Comment.* The commenter questioned the 1940–2003 period of record in SUPER which includes 18 years before Table Rock Dam was built. They do not ''understand how the modeling can be accurate for those early years and properly reflect the operation of Ozark Beach.''

Response: It is standard practice in hydrologic engineering to use existing stream gage information to develop historical flow data at dam sites. The flow data are used in hydrologic models to model the reservoir system over as long a period of record as gage data is available. Reservoirs were designed based on hydrologic models that predicted the system operation with the reservoir in place. That is not unique to SUPER or Southwestern, but it is standard practice in hydrologic engineering and simulation modeling.

6. *Comment.* The commenter noted that Southwestern used only the releases from Table Rock Dam as the inflows for Ozark Beach, and they stated that the Ozark Beach inflows are about 8% higher than Table Rock outflows due to intervening area inflow.

Response: Southwestern agrees that the inflows into Ozark Beach will typically be larger than the outflows from Table Rock Dam. Southwestern did not consider the intervening area inflow between Table Rock Dam and Ozark Beach in its initial analysis. The Ozark Beach drainage area is about 8.5 percent larger than the Table Rock drainage area.

The analysis has been updated using a drainage area ratio analysis of the intervening area inflow originating between Table Rock Dam and Bull Shoals Dam (as developed for the SUPER model) to add to the Table Rock outflows in estimating the Ozark Beach inflows. Using that technique, the average daily inflows into Ozark Beach are about 9 percent larger than the average daily outflows from Table Rock. The updated daily inflows were used in the computations for both the base and alternative cases. After the change, the calculated average annual energy loss at Ozark Beach increased from 8,645 MWh to 8,998 MWh.

7. *Comment.* ''We are very cognizant that the Empire ratepayers are the ones who shoulder the risk of analysis that does not properly account for the loss of energy and capacity at Ozark Beach. We are striving to protect their interests.''

Response: Likewise, the Federal hydropower customers bear the risk that Southwestern's analysis does not properly quantify the impacts at the Bull Shoals and Norfork projects. Southwestern's intent is, to the extent possible, to accurately identify and quantify the impacts of the White River Minimum Flows project for both the Federal and non-Federal hydropower projects.

8. *Comment.* ''the SWPA model failed to account for the efficiency gain actually seen at the dam with the new turbine wheel replacements and the model was unable to capture the expected five (5) feet of head loss. Thus, Staff considers that there are significant reasons to doubt the accuracy of SWPA's calculations.''

Response: Southwestern disagrees. See responses to Comments 2, 3, and 4 above.

9. *Comment.* ''Southwestern presents a reasonable approach to the calculation of lost energy and capacity from storage reallocation.''

Response: Concur.

10. *Comment.* The commenter ''strongly supports the process Southwestern uses for identifying and quantifying the energy and capacity lost due to reallocation of storage at Bull Shoals and Norfork, as well as the process for determining whether particular energy lost is peaking energy versus off-peak energy.''

Response: Concur.

B. Capacity Losses

1. *Comment.* The commenter ''agrees with SWPA that the capacity lost at Ozark Beach is 3 MW.''

Response: Though our techniques for determining the capacity loss at Ozark Beach were different, we agree on the amount of lost capacity.

2. *Comment.* ''The capacity loss calculation in the report accurately determines the amount of loss based on how much capacity is lost during the peak demand period and during the critical drought period of the water storage project.''

Response: Concur.

3. *Comment.* The commenter ''strongly supports the process Southwestern uses for identifying and quantifying the energy and capacity lost due to reallocation of storage at Bull Shoals and Norfork, as well as the process for determining whether particular energy lost is peaking energy versus off-peak energy.''

Response: Concur.

C. Replacement Costs of Energy

1. *Comment.* The commenter proposed that Southwestern use cost data that is more reflective of the entire market, and they noted that off-peak energy is often supplied by natural gas and not only coal-fired generation. The non-Federal licensee previously proposed and still believes that an industry source such as Platts would provide more appropriate values for replacement costs of on-peak and off-peak energy.

Response: The preliminary analysis of the impacts at Ozark Beach by the Corps proposed the use of the ''High Fuel Value'' energy cost data developed by Platts Power Outlook Research Service, a wholesale North American power market forecast service. Platts is a division of McGraw-Hill Companies, Inc. The non-Federal licensee agreed with the Corps on the use of the Platts energy cost data for the Corps analysis.

Southwestern initially used energy values developed by the Corps using Federal Energy Regulatory Commission (FERC) methodology for both the Federal and non-Federal impacts in order to be consistent with its evaluation of previous Corps reallocation studies, including its previous evaluation of White River Minimum Flows. While Southwestern was aware that the values produced by the Corps under older FERC criteria undervalue the energy benefits foregone in storage reallocations, we believed it was important to be consistent with our previous evaluations. The FERC values that Southwestern used for on-peak energy compare favorably with the Platts on-peak values. However, the FERC values that Southwestern used for off-peak energy are significantly lower than the Platts off-peak values.

After receiving public comments on our Draft Determination Report, Southwestern requested and received a copy of the spreadsheet ''program'' developed at FERC and used by the Corps in the development of replacement energy costs. The Corps' Hydropower Analysis Center (HAC) modified the program several years ago (pre-2000), but FERC has terminated support of the program. HAC continues to update the indices in the spreadsheet, but there is no active support for the program.

Southwestern revised its analysis for its Proposed Determination to use the Platts High Fuel Value energy cost forecast instead of the FERC energy values. The change was made for three primary reasons: (1) The Corps and Empire had previously agreed that the Platts High Fuel Value energy cost forecast numbers most accurately represented the replacement cost of energy; (2) comments from electric industry participants strongly supported the use of an industry source such as Platts; and (3) Southwestern's additional research revealed that the Platts values

for on-peak energy compare favorably with the FERC and current market values; however, the Platts values for off peak energy are much more reflective of the current market than the FERC values.

As a result of the revision, the annual energy losses (in 2008 dollars) are different than those reflected in Southwestern's initial analysis. The Federal on-peak energy value decreased from $91.44/MWh to $85.05/MWh, and the off-peak energy value increased from $17.50/MWh to $50.49/MWh. The non-Federal on-peak energy value increased from $56.45/MWh to $86.06/MWh, and the off-peak energy value increased from $13.75/MWh to $50.75/MWh.

2. *Comment.* One commenter argues the energy values developed by the Corps using the FERC methodology are too low, and they used the average spot purchase energy price from three rate cases for their analysis.

Response: See response to Comment 1.

3. *Comment.* ''In today's market place coal-fired energy is not available to wholesale customers who have to go out and replace lost hydropower energy. Low cost coal energy is generally reserved for rate base paying customers.'' The comment also states that ''Coal is not an appropriate replacement for the lost hydropower energy. A more likely alternative is some form of natural gas energy.''

Response: Concur. See response to Comment 1.

4. *Comment.* The commenter noted that Southwestern's current rate for losses is over $50.00/MWh. They believe that off-peak energy should be valued in the $50.00/MWh range, which would be more reasonable in today's market.

Response: Southwestern's rate for replacing non-Federal transmission losses is not determined from either the FERC or Platts values. It is based on actual purchases to replace losses incurred in transmitting non-Federal power and has no correlation to this determination.

5. *Comment.* The commenter stated that the Corps on-peak energy value is reasonable, but conservative. Based on current and projected prices for natural gas, they believe that on-peak energy values should begin at $100.00/MWh.

Response: See response to Comment 1.

6. *Comment.* The commenter encourages Southwestern to use Platts values or to update the FERC program to properly reflect market values of on-peak and off-peak energy.

Response: Concur. See response to Comment 1.

D. Replacement Costs of Capacity

1. *Comment.* The commenter agrees with Southwestern that a combined cycle facility would be appropriate for replacing lost capacity at Ozark Beach. They prefer that Southwestern use capacity costs from Platts but did not state what the Platts cost would currently be. The commenter's calculation uses $1,093/kW (which they say is equivalent to the $128.47/kW-yr used by Southwestern) and produces a present value of $9.2 million compared to $11.0 million calculated by Southwestern.

Response: While public comments expressed much disagreement with the replacement costs of energy used by Southwestern in its initial evaluation, there was limited discussion of the replacement costs of capacity used by Southwestern. The non-Federal licensee recommended Platts capacity cost data but used the FERC value in their updated calculation. One commenter stated that the capacity value used is reasonable but conservative. Southwestern will continue to utilize the capacity cost data produced by the Corps using FERC methodology in its analysis.

2. *Comment.* The commenter says FERC capacity values as computed and used by HAC for Federal hydropower are ''reasonable'', but ''conservative''. They ''assume the cost of new combustion turbine peaking capacity to be above $70.00/kW-yr.''

Response: See response to Comment 1.

E. Maintenance Costs

1. *Comment.* The non-Federal licensee added fixed O&M costs of $11.18/kW in 2007 dollars for the replacement capacity. That added about $800,000 to the present value non-Federal impacts. They did not detail how the O&M cost figure was derived or cite a source for referral at the time of the final calculation.

Response: According to the Corps, the FERC method capacity value calculation performed by HAC includes fixed O&M costs. The inclusion of additional O&M costs would double count those costs. Therefore, no additional costs are required and none will be included.

F. Inflation

1. *Comment.* The non-Federal licensee did not discuss Southwestern's use of the ''reference case'' inflation rate of 2.0 percent from the Energy Information Administration (EIA) Annual Energy Outlook. They used the EIA ''low growth'' inflation rate of 2.5 percent in their initial and updated analysis.

Response: Southwestern recognizes that historical inflation rates have been higher than the EIA ''reference case'' rate proposed by Southwestern in its draft determination. Economic conditions over the next 50 years are difficult if not impossible to reliably predict. Since the EIA is the independent statistical and analytical agency within the U.S. Department of Energy, Southwestern will defer to the projection of the EIA and will continue to use the ''reference case'' inflation rate in the latest Annual Energy Outlook in the determination of the Federal and non-Federal hydropower impacts.

2. *Comment.* The commenter used 2.5 percent inflation in their energy cost analysis and the non-Federal licensee's numbers for all other costs.

Response: See response to Comment 1.

3. *Comment.* The commenter cites the EIA Annual Energy Outlook 2007—''from 1980 to 2005, inflation has averaged 3.5 percent per year* * *'', and they ''question the applicability of the all-urban Consumer Price Index ('CPI') to accurately reflect the long-term costs of replacing CO_2 emissions-free federal hydropower.'' The commenter suggests looking to ''an industry specific producer price index which more closely mirrors the increased costs associated with electric power generation.''

Response: See response to Comment 1. Southwestern researched to find a source for a long-term, energy-specific inflation forecast but was unsuccessful.

4. *Comment.* ''at a minimum, the 'low growth' EIA value of 2.5 percent should be used.''

Response: See response to Comment 1.

G. Present Value Determination

1. *Comment.* The non-Federal licensee, in its August 2007 report detailing its analysis of the impacts at Ozark Beach (Appendix I in Southwestern's draft report), proposed the use of the current rate on 30-year U.S. Treasury notes for the discount rate. They used 4.8 percent in their initial analysis, which was the 30-year Treasury rate in effect at that time. The rate had gone up to 5.0 percent by the time of Southwestern's analysis. In February 2008, the rate dropped to 4.375 percent. The non-Federal licensee continued to use 4.8 percent in its review of Southwestern's draft determination report.

Response: There is no disagreement on the parameters for the present value determination. The 50-year project life was used by the Corps in its preliminary analysis, and the non-Federal licensee

and Southwestern agreed on that term. The non-Federal licensee used 4.8 percent for the discount rate in both its initial and follow-up analysis, but that number was based on the 30-year U.S. Treasury rate in effect at the time of their initial analysis. The use of the 30-year Treasury rate in the analysis was first proposed by the non-Federal licensee. Southwestern will use the 30-year Treasury rate in effect at the time of the final calculation as the discount rate.

2. *Comment.* ''The selection of the current rate on 30-year U.S. Treasury notes to be used as the discount rate in the present value calculation is a reasonable rate to use for capital projects.''

Response: Concur. See response to Comment 1.

3. *Comment.* The commenter ''supports the use of the interest rate for 30-year U.S. Treasury notes in effect at the time minimum flow releases are implemented as the appropriate discount rate for determining net present value of hydropower impacts. This is the same interest rate charged on new capital investments in the federal power system, and this rate was reaffirmed by Congress in its Department of Energy appropriation for FY 2008.''

Response: Concur. See response to Comment 1.

H. Carbon Tax and Renewable Portfolio Standard

1. *Comment.* The non-Federal licensee included a $20/ton carbon tax and a 5% renewable risk premium in their calculation of the non-Federal impacts.

Response: Since there is no way to reliably estimate if, when, or how a carbon dioxide tax would be implemented, Southwestern did not include losses based on a carbon dioxide tax. The impacts to both Federal and non-Federal hydropower should be quantified and included in the compensation calculation if any carbon dioxide tax legislation is implemented before the final payment or offset is completed.

Also, since there is no way to reliably estimate if, when, or how a renewable portfolio standard would be implemented, the impacts would be difficult to quantify. The State of Missouri currently has voluntary goals for adopting renewable energy, but there are no mandatory targets. Southwestern's position on a renewable risk premium is the same as on a possible carbon dioxide tax: If a state or Federal mandatory renewable portfolio standard that qualifies any of the three projects studied is implemented before the final payment or offset is completed, the impacts to both Federal and non-Federal hydropower should be quantified and included in the compensation calculation.

The authorizing legislation for the White River Minimum Flows project states that the non-Federal licensee will be compensated with a one-time payment ''on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.'' If the compensation to the non-Federal licensee were changed from a one-time payment to payments over a number of years, compensation for the impacts of a carbon dioxide tax or a renewable portfolio standard for the remainder of the payments should be computed and applied if either were implemented during that series of payments.

2. *Comment.* ''With a carbon tax of some type expected to be enacted in the near future, Staff believes that a factor must be added to account for it. While it is true, as the SWPA study pointed out, that the level of the tax is not now known, Staff does not consider 'zero' to be an acceptable estimate.''

Response: See response to Comment 1.

3. *Comment.* ''While there is not currently in place any statutory or regulatory scheme which places a price upon the emission of CO_2, such potential costs exist during the lifetime of the study.''

Response: See response to Comment 1.

I. Other

1. *Comment.* ''Please change the references in your report from 'Powersite Dam' to 'Ozark Beach' as that is the official name of the facility.''

Response: Concur. All references to Powersite Dam in Southwestern's report have been changed to Ozark Beach.

[FR Doc. E8–15135 Filed 7–2–08; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8583–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 2008 (73 FR 19833).

Draft EISs

EIS No. 20070526, ERP No. D–AFS–J65503–WY, Thunder Basin National Grassland Prairie Dog Management Strategy, Land and Resource Management Plan Amendment #3, Proposes to Implement a Site-Specific Strategy to Manage Black Trailed Prairie Dog, Douglas Ranger District, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, Campbell, Converse, Niobrara and Weston Counties, WY.

Summary: EPA expressed environmental concerns about alternatives, impacts to the black-footed ferret and the use of lethal control of prairie dog colonies. EPA recommended development of a non-lethal management alternative. Rating EC2.

EIS No. 20080032, ERP No. D–AFS–J65505–C0, Durango Mountain Resort Improvement Plan, Special-Use-Permits, Implementation, San Juan National Forest, La Plata and San Juan Counties, CO.

Summary: EPA expressed environmental concerns about impacts to lynx habitat, wetlands and water quality. Rating EC2.

EIS No. 20080060, ERP No. D–AFS–J65511–SD, Upper Spring Creek Project, Proposes to Implementation Multiple Resource Management Actions, Mystic Ranger District, Black Hills National Forest, Pennington County, SD.

Summary: EPA expressed environmental concerns about project impacts to water quality and a lack of specificity regarding impacts to wetlands, and requested additional information on restoring water quality in Spring Creek, from its headwaters to Sheridan Lake, which is water quality impaired. Rating EC2.

EIS No. 20080106, ERP No. D–AFS–J39039–CO, Long Draw Reservoir Project, Re-Issue a Special-Use-Authorization to Water Supply and Storage to Allow the Continued Use of Long Draw Reservoir and Dam, Arapaho and Roosevelt National Forests and Pawnee National Grassland, Grand and Larimer Counties, CO.

Summary: EPA expressed environmental concerns about the

availability of pure greenback cutthroat trout brood stock for restoration. Rating EC1.

EIS No. 20080113, ERP No. D–FRC–E03018–FL, Floridian Natural Gas Storage Project, Construction and Operation, Liquefied Natural Gas (LNG) Storage and Natural Gas Transmission Facilities, Martin County, FL.

Summary: EPA expressed environmental concern about water quality and noise and environmental justice issues. Rating EC1.

EIS No. 20080139, ERP No. D–FHW–F40443–MN, Trunk Highway 23 and U.S. Highway 71 Project, Construction of One or More Grade-Separated Bridge Crossings, Dovre Township, Northeast of Wilmar County, Kandiyohi, MN.

Summary: EPA expressed environmental concerns about wetland, noise, stormwater, and cumulative impacts. Rating EC2.

EIS No. 20080150, ERP No. D–NOA–E91023–00, Amendment 16 to the Fishery Management Plan for the Snapper Grouper Fishery, To End Overfishing of Gag and Vermillion Snapper, Implementation, South Atlantic Region.

Summary: While EPA has no objection to the proposed action, we requested clarification about the use of an interim management approach. Rating LO.

EIS No. 20070403, ERP No. DS–BLM–J65436–UT, Vernal Field Office Resource Management Plan, Updated Information, Managing Non-Wilderness Study Area (WSA) Lands with Wilderness Characteristics, Implementation, Vernal, UT.

Summary: EPA expressed environmental concerns about impacts to air quality and riparian areas, and recommended that the Final EIS include information assessing cumulative impacts. In addition, BLM should include information on the implementation of protective management prescriptions to mitigate for the above impacts. Rating EC2.

EIS No. 20080190, ERP No. DS–USA–A15000–00, Programmatic—Army Growth and Force Structure Realignment, Evaluation of Alternatives for Supporting the Growth, Realignment, and Transformation of the Army to Support Operational in the Pacific Theater, Implementation, Nationwide.

Summary: EPA does not object to the proposed action. Rating LO.

Final EISs

EIS No. 20070551, ERP No. F–BLM–J02051–UT, Greater Deadman Bench Oil and Gas Producing Region, Proposes to Develop Oil and Gas Resources, Right-of-Way Grants and Applications for Permit to Drill, Vernal, Uintah County, UT.

Summary: EPA continues to have environmental concerns about impacts to the riparian corridor on the Green River. EPA identified the need to improve cumulative impact assessment of air quality in the Uinta Basin.

EIS No. 20080146, ERP No. F–NOA–E91019–00, Amendment 2 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan, To Implement Management Measures that Prevent Overfishing and Rebuild Overfished Stocks, Implementation, Exclusive Economic Zone (EEZ) of the Atlantic Ocean, Gulf of Mexico and Caribbean Sea.

Summary: EPA does not object to the proposed action.

EIS No. 20080168, ERP No. F–AFS–L65500–AK, Iyouktug Timber Sales, Proposes Harvesting Timber, Implementation, Hoonah Ranger District, Tongass National Forest, Hoonah, AK.

Summary: EPA continues to have environmental concerns about impacts to water quality and wetlands.

EIS No. 20080176, ERP No. F–AFS–K65304–CA, North 49 Forest Health Recovery Project, Restore Fire Adapted Forest System, Located in the Red (MA–16) and Logan (MA–45) Management Areas, Hat Creek Ranger District, Lassen National Forest, Shasta County, CA.

Summary: EPA continues to have environmental concerns about cumulative effects and the continued deferral of roads issues.

EIS No. 20080188, ERP No. F–IBW–K36148–CA, Programmatic—Tijuana River Flood Control Project, Proposing a Range of Alternatives for Maintenance Activities and Future Improvements, San Diego County, CA.

Summary: EPA does not object to the proposed action.

EIS No. 20080189, ERP No. F–NSA–G06013–NM, Continued Operations of Los Alamos National Laboratory, Proposal to Expand Overall Operational Levels, (DOE/EIS–0380), Site Wide, Los Alamos County, NM.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20080207, ERP No. F–USN–E11063–00, Shock Trail of the MESA VERDE (LPD 19), San Antonio (LPD 17) Class Ship designated as the Shock Ship for Proposed Shock Trail, Possible Offshore Locations are Naval Station Norfolk, VA; Naval Station Mayport, FL; and Naval Air Station Pensacola, FL.

Summary: Based on the mitigation and monitoring programs described in the Final EIS, EPA does not object to the proposed action.

EIS No. 20080233, ERP No. F–NOA–E86004–00, South Atlantic Snapper Grouper Fishery, Amendment 14 to Establish Eight Marine Protected Areas in Federal Waters, Implementation, South Atlantic Region.

Summary: EPA does not object to the proposed action.

EIS No. 20080107, ERP No. FS–NOA–A91061–00, Atlantic Mackerel, Squid and Butterfish, Fishery Management Plan, Amendment #9, Implementation, Essential Fish Habitat (EFH), Exclusive Economic Zone (EEZ).

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20080199, ERP No. FS–BLM–L65462–AK, Northeast National Petroleum Reserve—Alaska Integrated Activity Plan, Updated Information, addressing the need for more Oil and Gas Production through Leasing Lands, Consideration of 4 Alternatives, North Slope Borough, AK.

Summary: EPA's previous concerns have been resolved; therefore, EPA does not object to the preferred alternative.

EIS No. 20080235, ERP No. FS–NOA–L91011–AK, Cook Inlet Beluga Whale Subsistence Harvest Project, Proposes to Implement a Long-Term Harvest Plan and Fulfill the Federal Government's Trust Responsibility, Cook Inlet, AK.

Summary: No formal comment letter was sent to the preparing agency.

Dated: June 30, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E8–15159 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8583–3]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 06/23/2008 through 06/27/2008.

Pursuant to 40 CFR 1506.9.

EIS No. 20080255, Final EIS, AFS, UT, Indian Springs Road Realignment, Reducing Adverse Impacts to Watershed and Fisheries, U.S. Army COE Section 404 Permit, Uinta-Wasatch-Cache National Forest, Wasatch County, UT, Wait Period Ends: 08/18/2008, Contact: Jim Percy 435–654–0470.

EIS No. 20080256, Draft EIS, NOA, 00, Amendment 29 Reef Fish Fishery Management Plan, Effort Management in the Commercial Grouper and Tilefish Fisheries, Reducing Overcapacity, Gulf of Mexico, Comment Period Ends: 08/18/2008, Contact: Roy E. Crabtree 727–824–5301.

EIS No. 20080257, Draft EIS, FAA, NM, Spaceport America Commercial Launch Site, Proposal to Develop and Operate, Issuance of License, Sierra County, NM, Comment Period Ends: 08/18/2008, Contact: Stacey M. Zee 202–267–9305.

EIS No. 20080258, Draft EIS, NHT, 00, Corporate Average Fuel Economy (CAFE) Proposed Standards for Model Year 2011–2025 Passenger Cars and Light Trucks, Implementation, Comment Period Ends: 08/18/2008, Contact: Carol Hammel-Smith 202–366–5206.

This document is available on the Internet at: *http://www.nhtsa.dot.gov.*

Amended Notices

EIS No. 20080242, Draft EIS, BLM, WV, East Lynn Lake Coal Lease Project, Proposal to Lease Federal Coal that lies Under Nine Tracts of Land for Mining, Wayne County, WV, Comment Period Ends: 09/24/2008, Contact: Chris Carusona 414–297–4463.

Revision of FR Notice Published 06/27/2008: Correction to project's state location from VA to WV.

Dated: June 30, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–15144 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0884; FRL–8369–7]

Experimental Use Permit; Receipt of Revised Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of a revised application 264–EUP–RUG from Bayer CropScience requesting an experimental use permit (EUP) for *Bacillus thuringiensis* Cry2Ae protein and the genetic material necessary for its production (pTEM12) in Event GHB 119 or GHB 714 cotton plants and the *Bacillus thuringiensis* Cry1Ab protein and the genetic material necessary for its production (pTDL004 or pTDL008) in Event T303–3 or T304–40 cotton plants. In some protocols, Cry 2Ae will be used with the previously registered *Bacillus thuringiensis* Cry1Ab protein. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before August 4, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0884 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0884. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8097; e-mail address: *bacchus.shanaz@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are interested in agricultural biotechnology or may be required to conduct testing of pesticidal substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

Bayer CropScience has requested to revise the application request for EUP 264–EUP–RUG. In the **Federal Register** of September 12, 2007 (72 FR 52127) (FRL–8145–4) the receipt of this EUP application was published. This revised application updates the proposed acreages and dates for planting and seeks to harmonize the requests of two EUPs, 264–EUP–RUG and 264–EUP–140. The proposed program will be carried out in the States of: Alabama, Arkansas, Arizona, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee and Texas. Bayer CropScience is now proposing to extend the experimental program until December 31, 2010 to allow for fall planting in Puerto Rico. Details of the proposed experimental program in accordance with EUP 264–EUP–RUG are available to the public in electronic documents attached to the docket ID number EPA–HQ–OPP–2007–0884 (see *http://www.regulations.gov*).

III. What Action is the Agency Taking?

Following the review of the Bayer CropScience application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the revised EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The specific legal authority for EPA to take this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: June 25, 2008.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E8–15158 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8687–7]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address a lawsuit filed by the National Environmental Development Association's Clean Air Project in the United States Court of Appeals for the District of Columbia: *National Environmental Development Association's Clean Air Project* v. *EPA*, No. 06–1428 (D.C. Cir.). Petitioner filed a petition for review challenging EPA's notice entitled ''Recent Posting to the Applicability Determination Index (ADI) of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Protection Program,'' 71 FR 70383 (December 4, 2006). Under the terms of the proposed settlement agreement, EPA agrees that in the first ADI Posting Notice signed after the settlement agreement becomes final, EPA will use specific language as set forth in the settlement agreement. In addition, no later than 30 days after the settlement agreement becomes final, EPA will provide a new search capability for users of the ADI.

DATES: Written comments on the proposed settlement agreement must be received by *August 4, 2008.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2008–0471, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov*; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT:

Diane McConkey, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5588; fax number (202) 564–5603; e-mail address: *mcconkey.diane@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement

Petitioner raised issues concerning the December 4, 2006, **Federal Register** notice entitled ''Recent Posting to the Applicability Determination Index (ADI) of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Protection Program,'' 71 FR 70383 (December 4, 2006). EPA maintains a computerized database, known as the Applicability Determination Index (''ADI''), which is a compilation of applicability determinations, alternative monitoring decisions, and regulatory interpretations pertaining to standards of performance for new stationary sources, national emission standards for hazardous air pollutants, and the stratospheric protection program. From time to time, EPA publishes in the **Federal Register** notices of recent postings to the ADI (''ADI Posting Notices''), similar to the notice at issue in this petition for review.

The settlement agreement provides that in the first ADI Posting Notice signed after this settlement agreement is final and effective, EPA will not use the expressions ''broadly termed applicability determinations,'' ''broadly termed alternative monitoring decisions,'' or ''broadly termed regulatory interpretations,'' but will instead use the following expressions, as needed: ''commonly referred to as applicability determinations,'' ''commonly referred to as alternative monitoring decisions,'' and ''commonly referred to as regulatory interpretations.'' In addition, EPA will include the following language: ''This notice does not change the status of any document with respect to whether it is 'of nationwide scope and effect' for purposes of section 307(b)(1) of the Clean Air Act. For example, this notice does not make an applicability determination for a particular source into a nationwide rule. Neither does it purport to make any document that was previously non-binding into a binding document.'' The settlement agreement further states that no later than 30 days after the date the agreement becomes final, EPA will provide a new search capability for users of the ADI, such that users have the option of performing a search limited to the documents contained in a single ADI Posting Notice. If EPA complies with the terms of the settlement agreement, Petitioner shall file for dismissal of the petition for review with prejudice in accordance with Rule 42(b) of the Federal Rules of Appellate Procedures.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How Can I Get A Copy of the Settlement Agreement?

Direct your comments to the official public docket for this action under Docket ID No. EPA–HQ–OGC–2008–0471 which contains a copy of the settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov.* You may use *http://www.regulations.gov* to view the settlement agreement, submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute are not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket,

and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov*, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 26, 2008.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E8–15157 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8687–8; Docket ID No: EPA–RO8–OW–2008]

Public Water System Supervision Program Variance and Exemption Review for the State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of results review.

SUMMARY: The Environmental Protection Agency, Region 8 has completed its statutory review of variances and exemptions issued by the State of Montana under the Safe Drinking Water Act (SDWA) Public Water System Supervision (PWSS) program. This review was announced in the **Federal Register** published February 21, 2008 (''73 FR 9567''), and provided the public with an opportunity to comment. No comments related to Variances and/or Exemptions issued or proposed by the State of Montana were received.

The Environmental Protection Agency, Region 8 determined as a result of this review that the State of Montana did not abuse its discretion on any variance or exemption granted or proposed as of the date of its on-site review on April 28, 2008.

FOR FURTHER INFORMATION CONTACT: Eric Finke at 406–457–5026 or e-mail at *Finke.Eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Montana has an EPA approved program for assuming primary enforcement authority for the PWSS program, pursuant to section 1413 of SDWA, 42 U.S.C. 300g–2 and 40 CFR Part 142.

A. Why Do States Issue Variances and Exemptions?

States with primary PWSS enforcement authority are authorized to grant variances and exemptions from National Primary Drinking Water Regulations due to particular situations with specific public water systems, providing these variances and exemptions meet the requirements of SDWA sections 1415 and 1416 and are protective of public health.

B. Why Is a Review of Variances and Exemptions Necessary?

Montana is authorized to grant variances and exemptions to drinking water systems in accordance with SDWA. The SDWA requires that EPA periodically conduct reviews on State-issued variances and exemptions to determine whether the State has abused its discretion or failed to prescribe schedules in accordance with the statute in a substantial number of cases, and publish the results of that review in the **Federal Register**. 42 U.S.C. 300g–4(e)(8); 42 U.S.C. 300g–5(d).

Dated: June 24, 2008.

Judith Wong,

Acting Deputy Regional Administrator, Region 8.

[FR Doc. E8–15147 Filed 7–2–08; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Proposed Collection; Submission for OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice of submission for OMB review—no change: Local Union Report EEO–3.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC) hereby gives notice that it has submitted to the Office of Management and Budget (OMB) a request for a three-year extension of the existing collection as described below.

DATES: Written comments on this final notice must be submitted on or before August 4, 2008.

ADDRESSES: The Request for Clearance (SF 83–I), supporting statement, and other documents submitted to OMB for review may be obtained from: Ronald Edwards, Director, Program Research and Surveys Division, 1801 L Street, NW., Washington, DC 20507. Comments on this final notice must be submitted to Chandana Achanta, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to *Chandana_L._Achanta@omb.eop.gov*. Comments should also be sent to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507 by the Federal eRulemaking Portal: *http://www.regulations.gov.* After accessing this Web site, follow its instructions for submitting comments. As a convenience to commentators, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (''FAX'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TDD). (These are not toll-free telephone numbers).

FOR FURTHER INFORMATION CONTACT: Ronald Edwards, Director, Program Research and Surveys Division, 1801 L Street, NW., Washington, DC 20507, at (202) 663–4958 or TDD (202) 663–7063. This notice is also available in the following formats: Large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: A notice that EEOC would be submitting this request was published in the **Federal Register** on April 18, 2008, allowing for a 60-day public comment period. No comments were received.

Overview of This Information Collection

Type of Review: Three-Year Extension—No change.

Collection Title: Local Union Report (EEO–3).

OMB Number: OMB Number 3046–0006

Form No.: 274.

Frequency of Report: Biennial.

Type of Respondent: Referral local unions with 100 or more members.

Description of Affected Public: Referral local unions and independent or unaffiliated referral unions and similar labor organizations.

Responses: 1,399.

Reporting Hours: 2,098 including recordkeeping.

Cost to Respondents: $39,871.

Number of Forms: 1.

Federal Cost: $60,000.

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports there from as required by the EEOC. The EEOC has issued regulations, 29 CFR 1602.22–26, which set forth the reporting requirements for local unions. Referral local unions with 100 or more members have been required to submit EEO–3 reports since 1967 (biennially since 1985). The individual reports are confidential.

Burden Statement: The estimated number of respondents included in the biennial EEO–3 survey is 1,399 referral unions. The total number of responses is 1,399. The biennial reporting is estimated to take is 2,098 hours.

Dated: June 27, 2008.

For the Commission.

Naomi C. Earp,

Chair.

[FR Doc. E8–15055 Filed 7–2–08; 8:45 am]

BILLING CODE 6570–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Proposed Collection; Submission for OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice of submission for OMB review—no change: State and Local Government Information (EEO–4).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC) hereby gives notice that it has submitted to the Office of Management and Budget (OMB) a request for a three year extension of the existing collection as described below.

DATES: Written comments on this final notice must be submitted on or before August 4, 2008.

ADDRESSES: The Request for Clearance (SF 83–I), supporting statement, and other documents submitted to OMB for review may be obtained from: Ronald Edwards, Director, Program Research and Surveys Division, 1801 L Street, NW., Washington, DC 20507. Comments on this final notice must be submitted to Chandana Achanta, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to *Chandana_L._Achanta@omb.eop.gov*. Comments should also be sent to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507 by the Federal eRulemaking Portal: *http://www.regulations.gov*. After accessing this Web site, follow its instructions for submitting comments. As a convenience to commentators, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (''FAX'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number.) Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TDD). (These are not toll-free telephone numbers.)

FOR FURTHER INFORMATION CONTACT: Ronald Edwards, Director, Program Research and Surveys Division, 1801 L Street, NW., Washington, DC 20507, at (202) 663–4958 or TDD (202) 663–7063. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: A notice that EEOC would be submitting this request was published in the **Federal Register** on April 18, 2008, allowing for a 60-day public comment period. No comments were received.

Overview of This Information Collection:

Type of Review: Three Year Extension—No change.

Collection Title: State and Local Government Information (EEO–4).

OMB Number: OMB Number 3046–0008.

Form No.: 164.

Frequency of Report: Biennially.

Type of Respondent: State and Local Government jurisdictions with 100 or more full-time employees.

Description of Affected Public: State and Local Governments excluding elementary and secondary public school districts.

Number of Responses: 12,036.

Reporting Hours: 40,000.

Cost to Respondents: $760,000.

Number of Forms: 1.

Federal Cost: $200,000.

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the EEOC. The EEOC has issued regulations, 29 CFR 1602.32–37, which set forth the reporting requirements for State and local governments. State and local governments with 100 or more full-time employees have been required to submit EEO–4 reports since 1973 (biennially in odd numbered years since 1993). The individual reports are confidential.

EEO–4 data are used by the EEOC to investigate charges of discrimination against state and local governments and to provide information on the employment status of minorities and women. The data are shared with several other Federal government agencies. Pursuant to section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO–4 data are also shared with eight-six State and Local Fair Employment Practices Agencies (FEPAs). Aggregated data are also used by researchers and the general public.

Burden Statement: The estimated number of respondents include in the biennial EEO–4 survey is 6,018 State and local governments. The estimated number of responses per respondent is two (2) EEO–4 reports and the reporting burden averages between 1 and 5 hours per response, including the time needed to review instructions, search existing data sources, gather and maintain the data, and complete and review the collection of information. The total number of responses is 12,036 reports while the total burden is estimated to be 40,000 hours, including recordkeeping burden. In order to help reduce burden, respondents are encouraged to report data via on-line filing system.

Dated: June 27, 2008.

For the Commission.

Naomi C. Earp,

Chair.

[FR Doc. E8–15122 Filed 7–2–08; 8:45 am]

BILLING CODE 6570–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Proposed Collection; Submission for OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice of submission for OMB review—no change: Elementary-Secondary Staff Information Report (EEO–5).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC) hereby gives notice that it has submitted to the Office of Management and Budget (OMB) a request for a three year extension of the existing collection as described below.

DATES: Written comments on this final notice must be submitted on or before August 4, 2008.

ADDRESSES: The Request for Clearance (SF 83–I), supporting statement, and other documents submitted to OMB for review may be obtained from: Ronald Edwards, Director, Program Research and Surveys Division, 1801 L Street, NW., Washington, DC 20507. Comments on this final notice must be submitted to Chandana Achanta, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to *Chandana_L._Achanta@omb.eop.gov*. Comments should also be sent to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507 by the Federal eRulemaking Portal: *http://www.regulations.gov*. After accessing this Web site, follow its instructions for submitting comments. As a convenience to commentators, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (''FAX'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TDD). (These are not toll-free telephone numbers).

FOR FURTHER INFORMATION CONTACT: Ronald Edwards, Director, Program Research and Surveys Division, 1801 L Street, NW., Washington, DC 20507, at (202) 663–4958 or TDD (202) 663–7063. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: A notice that the Equal Employment Opportunity Commission would be submitting this request to the Office of Management and Budget (OMB), pursuant to the Paperwork Reduction Act of 1995 (PRA) was published in the **Federal Register** on April 18, 2008, allowing for a 60-day public comment period. Only one comment was received and it pointed out the inconsistency between some of the race and ethnic categories that the Department of Education uses in its collection of student enrollment data and the categories EEOC uses in its collection of staffing data. EEOC intends to resolve this inconsistency during this extension period.

Overview of This Information Collection

Type of Review: Three Year Extension—No change.

Collection Title: Elementary-Secondary Staff Information Report (EEO–5).

OMB Number: OMB Number 3046–0003.

Form No.: 168A.

Frequency of Report: Biennially.

Type of Respondent: Public elementary and secondary school districts with 100 or more employees.

Description of Affected Public: Public elementary and secondary school districts and their employees.

Responses: 7,500.

Reporting Hours: 10,000.

Cost to Respondents: $190,000.

Federal Cost: $170,000.

Abstract: Section 709 (c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the EEOC. The EEOC has issued regulations, 29 CFR 1602.41–45, which sets forth the reporting requirements for public elementary and secondary schools. Elementary and secondary public school systems and districts have been required to submit EEO–5 reports to EEOC since 1974 (biennially in even numbered years since 1982). Since 1996 each school district or system has submitted all of the district data on a single form, EEOC Form 168A. The individual school form, EEOC Form 168B, was eliminated in 1996, greatly reducing the respondent burden and cost. EEO–5 data are used by EEOC to investigate charges of employment discrimination against elementary and secondary public school districts. The data are used to support EEOC decisions and conciliations, and for research. The data are shared with the Department of Education (Office for Civil Rights and the National Center for Education Statistics) and the Department of Justice. Pursuant to section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO–5 data are also shared with eighty-six State and Local Fair Employment Practices Agencies (FEPAs). The individual reports are confidential.

EEO–5 data are used by the EEOC to investigate charges of discrimination against elementary and secondary public school systems and to provide information on the employment status in this sector of the work place by race, ethnicity and gender.

Burden Statement: The estimated number of respondents included in the biennial EEO–5 survey is 7,500 public elementary and secondary school districts. The estimated number of responses per respondent is one report so the annual number of responses is approximately 7,500 and the total hours per response is approximately 1.3 hours. The estimated total number of burden hours is 10,000 hours each time the survey is conducted (i.e., biennially.) In order to help reduce burden, respondents are encouraged to report data using EEOC's on-line filing system.

Dated: June 27, 2008.

For the Commission.

Naomi C. Earp,

Chair.

[FR Doc. E8–15125 Filed 7–2–08; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

June 25, 2008.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection(s). Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 2, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your comments by e-mail to *PRA@fcc.gov.* Include in the email the OMB control number of the collection. If you are unable to submit your comments by e-mail contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) or to obtain a copy of the collection send an e-mail to *PRA@fcc.gov* and include the collection's OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below, or call Leslie F. Smith at (202) 418–0217.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0793.

Title: Federal-State Joint Board on Universal Service, CC Docket No. 96–45, Procedures for Self Certifying as a Rural Carrier.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit; and not-for-profit institutions.

Number of Respondents and Responses: 1 respondent; 1 response.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 0.5 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature of Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: In the *Tenth Report and Order,* the Commission adopted proposals that carriers serving study areas with fewer than 100,000 access lines that already have certified their rural status need not re-certify for purposes of receiving support beginning January 1, 2000 and need only file thereafter if their status changes. Further, carriers serving more than 100,000 access lines need to file rural certifications for their year 2001 status and thereafter only if their status has changed.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–14895 Filed 7–2–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

June 25, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Pursuant to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before September 2, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Interested parties may submit all PRA comments by e-mail or U.S. mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at 202–418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0126.

Title: Section 73.1820, Station Log.

Type of Review: Extension of a currently approved collection.

Form Number: Not applicable.

Respondents: Businesses or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 15,200 respondents; 15,200 responses.

Estimated Time per Response: 0.017–0.5 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 15,095 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: 47 CFR 73.1820 requires that each licensee of an AM, FM or TV broadcast station maintain a station log. Each entry must accurately reflect the station's operation. This log should reflect adjustments to operating parameters for AM stations with directional antennas without an approved sampling system; for all stations the actual time of any observation of extinguishment or improper operation of tower lights; and entry of each test of the Emergency Broadcast System (EBS) for commercial stations.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–14899 Filed 7–2–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

June 25, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before September 2, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0473.

Title: Section 74.1251, Technical and Equipment Modifications.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 100 respondents; 200 responses.

Estimated Time per Response: 0.25 hours.

Frequency of Response: Recordkeeping requirement; One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i) and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 50 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: 47 CFR 74.1251(b)(1) states that formal application on FCC Form 349 is required of all permittees and licensees for any of the following changes: Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been certificated by the FCC for use by FM translator or FM booster stations, or any change which could result in the electrical characteristics or performance of the station. Upon the installation or modification of the transmitting equipment for which prior FCC authority is not required under the provisions of this paragraph, the licensee shall place in the station records a certification that the new installation complies in all respects with the technical requirements of this part and the terms of the station authorization.

Section 74.1251(c) requires FM translator licensee to notify the FCC, in writing, of changes in the primary FM station being retransmitted.

OMB Control Number: 3060–0550.

Title: Local Franchising Authority Certification.

Form Number: FCC Form FCC 328.

Type of Review: Extension of a currently approved collection.

Respondents: State, Local or Tribal Government.

Number of Respondents and Responses: 20 respondents; 20 responses.

Estimated Time per Response: 0.50 hours (30 minutes).

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in section 3 of the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. 543).

Total Annual Burden: 10 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: On May 3, 1993, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, MM Docket No. 92–266, FCC 93–177, In the Matter of Implementation of sections of the Cable Television Consumer Protection and Competition Act of 1992; Rate Regulation. Among other things, the Report and Order implemented section 3(a) of the Cable Television Consumer Protection and Competition Act of 1992 wherein a local franchise authority (''LFA'') must file with the Commission a written certification when it seeks to regulate basic service cable rates. Subsequently, the Commission developed FCC Form 328 to provide a standardized, simple form for LFAs to use when requesting certification.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–14900 Filed 7–2–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

June 27, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing

effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 4, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov or PRA@fcc.gov.*

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0466.

Title: Sections 73.1201, 74.783 and 74.1283, Station Identification.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local and Tribal Government.

Number of Respondents and Responses: 20,000 respondents; 20,000 responses.

Estimated Time per Response: 10 minutes to 1.33 hours.

Frequency of Response: Recordkeeping requirement; Third-party disclosure requirement; On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 44,370 hours.

Total Annual Costs: None.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: On November 27, 2007, the Commission adopted a Report and Order in MM Docket 00–168, FCC 07–205, In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations. The Report and Order requires that twice daily, the station identification for television stations must include a notice of the existence, location and accessibility of the station's public file pursuant to 47 CFR 73.1201(b)(3). The notice must state that the station's public file is available for inspection and that consumers can view it at the station's main studio and on its Web site. At least one of the announcements must occur between the hours of 6 p.m. and midnight.

47 CFR 73.1201(a) requires television broadcast licensees to make broadcast station identification announcements at the beginning and ending of each time of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings. Television and Class A television broadcast stations may make these announcements visually or aurally.

47 CFR 73.1201(b)(1) requires that the official station identification consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location; provided that the name of the licensee, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. DTV stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a DTV station with major channel number 26 may use 26.1 to identify an HDTV program service and 26.2 to identify an SDTV program service. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other insertion between the station's call letters and the community or communities specified in its license is permissible.

47 CFR 73.1201(b)(3) requires that twice daily, the station identification for television stations must include a notice of the existence, location and accessibility of the station's public file. The notice must state that the station's public file is available for inspection and that consumers can view it at the station's main studio and on its Web site. At least one of the announcements must occur between the hours of 6 p.m. and midnight.

47 CFR 74.783(e) permits any low-power television (LPTV) station to request a four-letter call sign after receiving its construction permit. All initial LPTV construction permits will continue to be issued with a five-character LPTV call sign. LPTV respondents are required to use the online electronic system. To enable these respondents to use this online system, the Commission eliminated the requirement that holders of LPTV construction permits submit with their call sign requests a certification that the station has been constructed, that physical construction is underway at the transmitter site, or that a firm equipment order has been placed.

47 CFR 74.783(b) requires licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television licensee to keep in its file, and available to FCC personnel, the translator's call

letters and location, giving the name, address and telephone number of the licensee or service representative to be contacted in the event of malfunction of the translator.

47 CFR 74.1283(c)(1) requires FM translator stations whose station identification is made by the primary station to furnish current information on the translator's call letters and location. This information is kept in the primary station's files. This information is used to contact the translator licensee in the event of malfunction of the translator.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–15170 Filed 7–2–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, Comments Requested

June 27, 2007.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection(s). Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before August 4, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your comments to Nicholas A. Fraser, Office of Management and Budget (e-mail address: *nfraser@omb.eop.gov*), and to the Federal Communications Commission's PRA mailbox (e-mail address: *PRA@fcc.gov*). Include in the e-mails the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below or, if there is no OMB control number, the Title as shown in the **SUPPLEMENTARY INFORMATION** section. If you are unable to submit your comments by e-mail contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information contact Jerry Cowden via e-mail at *PRA@fcc.gov* or at 202–418–0447. To view or obtain a copy of an information collection request (ICR) submitted to OMB: (1) Go to this OMB/GSA web page: *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of the ICR you want to view (or its title if there is no OMB control number) and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: OMB Control Number: 3060–0207.

Title: Part 11—Emergency Alert System.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents and Responses: 63,080 respondents; 3,533,196 responses.

Estimated Time per Response: 0.0227035 hour (range of 1 minute to 20 hours).

Frequency of Response: Recordkeeping; third party disclosure; on occasion reporting requirement; semi-annual and annual reporting requirement.

Obligation to Respond: Mandatory (47 CFR part 11).

Total Annual Burden: 80,216 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: In the Second Report and Order and Further Notice of Proposed Rulemaking in EB Docket No. 04–296, FCC 07–109, the Commission adopts rules that require states to file new EAS plans with the Commission under certain circumstances, expand the number of private entities covered by EAS, and impose new obligations on private entities. The rules require EAS participants to maintain and keep immediately-available a copy of the EAS operating handbook at normal duty positions or EAS equipment locations; requires state and local EAS plans to be reviewed and approved by the Chief, Public Safety and Homeland Security Bureau prior to implementation; requires manufacturers to include instructions and information on the proper installation, operation and programming of an EAS Encoder, EAS Decoder, or combined unit and a list of all State and county FIPS numbers with each unit sold or marketed in the US; require appropriate logs be kept regarding EAS testing and EAS Decoder malfunctions; allow all EAS participants to submit a written request to the FCC asking to be a Non-Participating National source; require communications common carriers participating in the national level EAS and rendering free service to file semiannual reports on the free service; require entities wishing to voluntarily participate in the national level EAS to submit a written request to the FCC; require written agreements between broadcast stations and cable or wireless cable systems on election not to interrupt EAS messages; require a waiver request be made to the FCC if EAS sources cannot be received and alternate arrangements cannot be made; impose a disclosure requirement on SDARS licensees or DBS providers that are not able to transmit state and local EAS messages; and require logging of various events and tests.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–15175 Filed 7–2–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Meetings; Sunshine Act

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: July 9, 2008—10 a.m.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: Closed Session.

MATTERS TO BE CONSIDERED:

Closed Session

(1) Export Cargo Issues Status Report.
(2) Internal Administrative Practices and Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Assistant Secretary, (202) 523–5725.

Karen V. Gregory,
Assistant Secretary.

[FR Doc. 08–1414 Filed 7–1–08; 3:15 pm]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Training of Latin American Health-Care Workers Through the Gorgas Memorial Institute, Republic of Panama

AGENCY: Office of the Secretary, Office of the Assistant Secretary for Preparedness and Response.

ACTION: Notice.

Funding Opportunity Title: Training of Latin American Health-Care Workers through the Gorgas Memorial Institute, Republic of Panama.

Announcement Type: Single-Source, Cooperative Agreement.

Funding Opportunity Number: Not applicable.

Catalog of Federal Domestic Assistance Number: 93.019.

DATES: To receive consideration, applications must be received by the Office of Grants Management within the Office of Public Health and Science (OPHS) of the Department of Health and Human Services (HHS) no later than August 4, 2008. HHS will consider applications as meeting the deadline if the HHS/OPHS Office of Grants Management (c/o Grant Application Center, 1515 Wilson Boulevard, Suite 100, Arlington, VA 22209), receives them no later than 5 p.m., Eastern Time, on the application due date. HHS will accept applications electronically submitted through GrantSolutions.gov or Grants.Gov until 11 p.m., Eastern Time, on this date. HHS will not accept applications by fax, nor will HHS extend the submission deadline. The application due date requirement specified in this announcement supersedes the instructions in the OPHS–1. HHS will return to the applicant, unread, applications that do not meet the deadline. See heading ''Application and Submission Information'' for information on mechanisms to submit applications.

SUMMARY: This project will support the Gorgas Memorial Institute (GMI) to: (a) Develop a regional training center in Panama and (b) train community health workers, clinicians (physicians, nurses, and auxiliary medical workers) and select public-health professionals from Central and South America (i.e., Latin America), (c) facilitate partnerships between U.S. universities and their Latin American counterparts to develop human resources for health in Latin America, and (d) harness the energies of U.S. and other non-governmental organizations by partnering with them to advance community health-training and program efforts in Latin America.

These efforts will help engage significantly more areas of these countries to prepare for and respond to public-health emergencies, such as pandemic influenza, and they will contribute to the improved and expanded provision of prevention and primary health care. This training of nurses, community health workers and physicians will focus on improving and expanding coverage and access to both public-health emergency care and preventive and primary health care in underserved parts of Latin America (i.e., both underserved rural and poor urban communities). A result of this project, the health-care work force in Central America should be better prepared to respond to public-health emergencies, including pandemic influenza. Key to the selection of recipients for this training will be their availability and willingness to provide their health and medical care skills in underserved areas within the region, especially rural and indigenous communities and those visited by U.S. Government humanitarian missions in the past year. In addition to all appropriate subjects in the fields of medical care and health education or communication, training supported by this project will emphasize infectious diseases, epidemiology, disease surveillance and outbreak response, so graduates of training programs will be prepared to play contributing roles in any pandemic preparation and response.

SUPPLEMENTARY INFORMATION: While a number of Central and South American and Caribbean countries have made significant strides towards improving the quality of health care for their citizens, and extending that care into underserved areas, a number of countries and regions still suffer from a shortage of appropriately trained health-care workers and clinicians. Though all levels of medical care (primary, secondary and tertiary) warrant further investment and effort to meet the present and growing need in Latin America and the Caribbean for medical care, this need is perhaps most acute among rural, indigenous and disadvantaged urban communities, where essential public health, prevention and primary care are absent or sparse. From a public-health perspective, focusing public investment on basic and essential primary care results in a maximization of benefits for the greatest number of people.

Compounding the pre-existing and wide ranging needs for basic community, preventive and primary health care in this region are new threats from emerging infectious diseases that are looming on the horizon. The H5N1 strain of avian flu has become the most threatening influenza virus in the world that could cause a pandemic, and any large-scale outbreak of this disease among humans would have grave consequences for global public health, including in Latin America. Influenza experts have warned that the re-assortment of different influenza viruses could greatly increase the potential for the viruses to transmit more easily from person to person. Medical practitioners have also discovered several other, new avian viruses transmissible to humans. In the fight against avian and pandemic influenza, early detection and response is the first line of defense, and greater numbers of appropriately trained community and clinical health-care workers would play a vital role in helping respond to such public-health emergencies.

No funds provided under this cooperative agreement may support any activity that duplicates another activity supported by any component of HHS. Funds provided under this cooperative agreement may not supplant funding provided by other sources. Grantees must coordinate all funded activities with the HHS Office of the Assistant Secretary for Preparedness and Response (ASPR) and the Office of Global Health Affairs.

I. Funding Opportunity Description

Authority:

Section 307(a) and (b) of the PHS Act (42 U.S.C. 242l);

Section 1702(a)(2), (3) and (4)(A) and (C) (42 U.S.C. 300u–1(a)(2), (3), and 4(A) and (C));

Section 1703(a)(1), (2), (3), and (4) (42 U.S.C. 300u–2(a)(1), (2), (3) and (4));

Section 1703(c) (42 U.S.C. 300u–2(c)); and

Section 1704(1), (2), and (3) (42 U.S.C. 300u–3(1), (2), and (3)).

Purpose: This program proposes that Gorgas Memorial Institute (GMI):

(a) Continue to develop and establish a regional training center in Panama for health workers, medical clinicians (auxiliary health-care workers, community health aides, nurses, physician assistants, nurse practitioners, and physicians) and select public-health professionals from Central and South America. Development of such a center is understood to include the recruitment and retention of faculty and administrative staff, the development of curricula, and all appropriate inter-face with Panamanian, regional and international educational systems and peer groups.

(b) Train significant numbers of community health workers and clinicians (physicians, nurses, and auxiliary medical workers) and select public-health professionals from Central and South American and Caribbean countries.

(c) Through this cooperative agreement with HHS, explore and lead, where possible, the creation of partnerships between U.S. universities and Latin American counterpart institutions to further develop and train community-level health-care workers, and identify policy and program options that can contribute to the greater expansion and sustainability of community-level health-care workers in currently underserved areas. Additional funds from HHS could be available in the future to further expand the number of these partnerships.

(d) With HHS, investigate and develop approaches for collaborating with Latin American, Caribbean, U.S. and/or international non-governmental organizations (NGOs) to help advance the training of the community and field health and medical personnel of these NGOs.

(e) With HHS, investigate and develop approaches for collaborating with Latin American, Caribbean and U.S. NGOs to link, bridge and supplement these NGOs' community health initiatives, where possible, through GMI's provision of logistical support and a base of operations for the NGOs', working in agreement with GMI.

(f) Identify organizations of U.S.-based emigrants and their places of origin throughout the countries of Central and South America and the Caribbean, and pursue efforts to build or expand community health complements to any community-assistance initiatives these organizations are or could be providing.

(g) With HHS, international health organizations and NGOs, pursue coordinated efforts on health campaigns of public-health priority for which a campaign strategy approach offers merit (e.g., immunization promotion, including seasonal influenza immunization, polio eradication, oral rehydration therapy, etc.). Any campaigns should utilize the best available approaches to research, development, implementation and evaluation. GMI will design and implement new teaching methods directed to the community, to adopt healthy lifestyles and attitudes towards prevention.

(h) With HHS and the U.S. Department of Defense, coordinate training and surveillance activities of all three institutions with humanitarian missions in the Region.

Measurable outcomes of the program will be the following:

(a) Continue work begun in the first and second years of this effort to develop appropriate teaching curricula, engage with appropriate Panamanian and international teaching/educational networks to ensure high educational standards; hire appropriately-trained teaching, administrative and management staff; and maintain all appropriate management, fiscal, and business operations to support and sustain such a training institute.

(b) Provide periodic reports of the number of people who have completed training; such reports should include details on the numbers of those who have dropped out midway, and those who have completed the training; pre- and post-test scores on key competency subject areas; numbers trained by type of health-care or clinical worker; town and country of origin of incoming students, as well as where those same students work and reside at six- and twelve-month intervals following the completion of their training; and the results of follow-up questionnaires sent to graduates that solicit feedback on their training and its appropriateness, and suggestions for how the school might improve its training. Any information Gorgas provides to HHS on training participants should remove individuals' personal data from the reports, to maintain the privacy of participants. (See ''Reporting Requirements #2'' Section later in this document for complementary reporting obligations pertinent to this outcome).

(c) Quantify and detail the number of partnerships with U.S. institutions explored, as well as the number for which formal partnerships have been created, where substantive exchange of training expertise, faculty, and/or students is documented and described.

(d) Quantify and detail the number of studies and recommendations of program and policy options available to Latin American and Caribbean countries that would contribute to expanded, sustained community-level health-care personnel.

(e) Quantify and detail the number of partnerships with Latin American, Caribbean, U.S. and/or international NGOs explored, and the number of such partnerships developed and formally established.

(f) Provide detailed descriptions of the base-of-operations and logistics resources that GMI has developed and is maintaining, along with details of how it has communicated the availability of these resources to NGOs.

(g) Quantify and detail the number of Latin American, Caribbean, U.S. and/or international NGOs that have opted to use GMI's provision of base-of-operations and logistics support in a given time period, and details on the nature and extent of such use.

(h) Quantify and detail the number of health campaigns in which GMI participates, with detailed description(s) of the role(s) played by GMI, along with the level of effort it contributed to each of these efforts.

(i) Quantify and detail the number of organizations of U.S.-based Latin American and Caribbean emigrants with which GMI has identified and partnered with, to enhance their community-health activities, and provide details of those community-health activities.

(j) Quantify and detail the number of scholarships awarded to low-income students who will be participating in these trainings. Any information Gorgas provides to HHS on training participants should remove individuals' personal data from the reports, to maintain the privacy of participants.

Activities HHS Anticipates the Grantee will Perform:

HHS anticipates the grantee will undertake a variety of activities to realize the aforementioned purposes and outcomes. A list of what some of these activities might include follows.

1. Continue to establish/develop appropriate teaching curricula for specific training modules and assemblages of trainees;

2. In partnership with HHS, Panamanian Ministry of Health and NGOs, acquire didactic teaching

resources and equipment that will allow appropriate training;

3. Continue to engage in appropriate Panamanian and international teaching or educational networks to ensure high educational standards;

4. Continue to recruit and hire appropriately trained teaching and administrative staff;

5. Continue to establish all appropriate management, fiscal, and business operations to support and sustain an efficient and effective training institute;

6. Establish an efficient performance-monitoring and reporting system, and submit periodic reports to HHS;

7. Continue to pursue and develop partnerships with U.S. educational institutions in expanding GMI's knowledge, contacts and resources for improving and expanding community training and sustainability of health workers;

8. Pursue and develop partnerships with Latin American, Caribbean, U.S. and/or international NGOs to provide these NGOs' health-care staff with appropriate training;

9. Identify an appropriate level of facilities that can function as a base of operation for NGOs, with appropriate contingency plans for expanding this level of facilities as interest and demand for it could grow;

10. Identify, provide and assemble logistics resources for NGOs to enhance their community-health and outreach activities;

11. In partnership with HHS, and NGOs, identify appropriate topics for health campaigns, and participate in the implementation and assessment of those campaigns;

12. Identify and approach fraternal organizations of U.S.-based emigrants that provide assistance to communities in Latin America and Caribbean, and partner with these groups to enhance their community-health activities;

13. In partnership with HHS, Panamanian Ministry of Health and NGOs, identify scholarships or fellowships to participating health-care personnel who are attending these courses;

14. In partnership with HHS and the U.S. Department of Defense, coordinate training and surveillance activities of the three institutions with humanitarian missions in the Region.

This cooperative agreement will provide total funding of $600,000 for all aspects of the described project.

HHS will be substantially involved with the design and implementation of the grantee's described activities. The HHS Office of the Assistant Secretary for Preparedness and Response (ASPR) is issuing and will manage this grant, with substantive involvement from the Office of Global Health Affairs (OGHA). In HHS international public health efforts, the Offices/Centers of HHS/OGHA and HHS/ASPR often collaborate on programs, issues and initiatives (e.g., influenza, the implementation of the International Health Regulations, etc.).

HHS staff members' activities for this program are as follows:

1. Provide assistance in the design and implementation with any of the aforementioned objectives and activities, including the identification of U.S. universities, and NGOs.

2. Provide liaison through HHS employees at U.S. Embassy(ies) in any participating or collaborating countries, as appropriate, and as relevant to the achievement of the purposes of this cooperative agreement.

3. Organize an orientation meeting with the grantee to discuss applicable U.S. Government, HHS, and *National Strategic Plan* expectations, regulations and key management requirements, as well as report formats and contents. The orientation could include meetings with staff from HHS agencies and the Office of the Senior Coordinator for Avian and Pandemic Influenza at the U.S. Department of State.

4. Review and approve the process used by the grantee to select key personnel and/or post-award subcontractors and/or subgrantees to involve in the activities performed under this agreement.

5. Review and approve the grantee's work plan and detailed budget.

6. Review and approve the grantee's monitoring-and-evaluation plan, including for compliance with the strategic-information guidance established by the Office of Management and Budget (OMB) and HHS;

7. Review, on a monthly basis, with the grantee to assess monthly disbursement requests and expenditures in relation to approved work plan and modify plans, as necessary.

8. Meet via conference call on a quarterly basis with the grantee to assess quarterly technical and financial progress reports and modify plans, as necessary.

9. Meet via conference call or in person with the grantee to review the final progress report.

10. Provide technical assistance, as mutually agreed upon. This could include expert technical assistance and targeted training activities in specialized areas, such as strategic information and project management.

11. Provide in-country administrative support to help the grantee meet U.S. Government financial and reporting requirements approved by OMB under 0920–0428 (Public Health Service Form 5161).

12. Assist in assessing program operations and in implementing approaches to accurately monitor the progress and evaluate the overall effectiveness of the program.

II. Award Information

This project will be supported through the cooperative agreement mechanism. HHS/ASPR anticipates making only one award for this proposed work. The anticipated start date is September 1, 2008, and end date is August 31, 2009. HHS/ASPR anticipates providing $600,000 for the 12-month budget period. The total amount that the Gorgas Memorial Institute for Health Studies may request is $600,000. The funds in this cooperative agreement may not support indirect costs.

III. Eligibility Information

1. Eligible Applicants

The only eligible applicant that can apply for this funding opportunity is the Gorgas Memorial Institute for Health Studies of Panama. Gorgas Memorial Institute is uniquely qualified to assist the Department in its efforts to train health care workers from this region to increase access to quality medical care, including efforts to detect, prevent, and contain pandemic influenza outbreaks for the following reasons:

- *Legacy:* The Republic of Panama has legacy of biomedical triumphs that began with the building of the Panama Canal. Recognizing the outstanding achievements of William Crawford Gorgas in eliminating Yellow Fever and controlling other tropical infections that made possible the construction of the Panama Canal, Panamanian President Belisario Porras proposed in 1920 the creation of the Gorgas Memorial Institute and Laboratories (GMI). GMI opened its doors in 1928, and since then has produced ground-breaking and internationally recognized work in the field of tropical medicine, emerging and re-emerging diseases.

As a public-health, training, and research institution, GMI offers strengths in several areas that are essential to the effective realization of this proposal's objectives and activities.

- *Staffing:* GMI has 201 workers, who include trainers, physicians, scientists, technical staff and administrative staff. GMI scientific and technical expertise resides in its excellent professional staff members, six of whom are Ph.D.s, and 12 of whom are M.D.s. One of the physicians is a former Minister of

Health. GMI has two veterinary physicians with Ph.D.s and many technicians with Master's degrees in science. GMI has a specialist in geo-reference and a group trained in the field isolation of dangerous organisms from animal tissues (developed during the Hanta virus epidemics). There is also an excellent administrative, medical library and informatics staff.

• *Scientific and technical expertise:* GMI is the National Public Health Laboratory and the reference laboratory for influenza, dengue and other pathogenic viruses in Panama. It is the reference laboratory for Central America and Panama for HIV/AIDS, measles, Hanta virus and viral encephalitis. Its parasitologists have worked and continue to work in malaria, leishmania and Chagas disease.

GMI has a long and solid reputation in virology, easily confirmed by many distinguished virologists in the United States. The Gorgas Department of Virology has been extremely productive through its collaborations with the Yale University Arbovirus Research Unit, the University of Texas at Galveston and the HHS Centers for Disease Control and Prevention (CDC). GMI began working with influenza in 1976, and has contributed influenza isolates to the World Health Organization (WHO), one of which the WHO has determined should be part of the current influenza vaccine. All these are health concerns of pressing significance for rural and underserved areas.

• *Laboratory capacity:* GMI has well-established laboratories of virology, parasitology, immunology, genomics, entomology and food and water chemistry. GMI is the national Public Health Laboratory of Panama, and this makes it the reference laboratory for malaria, tuberculosis and all viral and bacterial diseases. GMI also has departments of epidemiology and biostatistics, chronic disease studies, health policy, and health and human-reproduction studies. In addition to all these areas of expertise, GMI is also the locus of the Panamanian national human-subjects committee (National Institutional Review Board). A new BLS–3 laboratory is currently under construction, along with the expansion and improvement of existing laboratory space, is part of a modernization plan that will significantly enhance the capability of GMI laboratories to provide training in the role that laboratory services play in the delivery of community health care.

• *Location:* The unique geographic characteristics of Panama and its transportation (air, sea and land) infrastructure make it an extremely central and accessible location for people from Central and South America who would attend for training.

• *Strategic partnerships:* GMI has a history of developing effective relations and partnerships with leading organizations, including the Smithsonian Institution, the U.S. Department of Agriculture (USDA), and HHS/CDC in Guatemala, among others.

• *History:* Historical Medical Collaboration between the United States and Panam via GMI: American and Panamanian physicians and scientist have produced significant contributions since 1928, and those relationships continue up to present.

GMI is the only institution positioned and capable to carry out the activities specified in the cooperative agreement. For these reason, the Department desires to award the cooperative agreement based on single eligibility to GMI.

2. Cost-Sharing or Matching Funds

Cost participation is encouraged. HHS will pay $600,000, while GMI should provide an amount specified in their proposal. GMI's contribution may include indirect expenses and in-kind contributions. The types of resources GMI could contribute could include, but are not limited to, the following: Personnel time and costs, provision of existing and physical space and structures, and the remodeling (and associated costs) of those physical facilities that are to be converted to teaching facilities, vehicles for transportation, and the development of a staging area for NGOs. If applicant receives funding from other sources to underwrite the same or similar activities, or anticipate receiving such funding in the next 12 months, they must detail how the disparate streams of financing complement each other.

3. Other

If an applicant requests a funding amount greater than the ceiling of the award range, HHS will consider the application non-responsive, and the application will not enter into the review process. HHS will notify the applicant that the application did not meet the submission requirements.

Special Requirements

If the application is incomplete or non-responsive to the special requirements listed in this Section, the application will not enter into the review process. HHS will notify the applicant that the application did not meet submission requirements. HHS will consider late applications non-responsive.

Please see Division G, Title V, ''General Provisions,'' Section 503(b) of the 2008 Consolidated Appropriations Act, which provides that ''* * * no part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.''

IV. Application and Submission Information

1. Address To Request Application Package

Applicants may obtain kits electronically by accessing Grants.gov at *http://www.grants.gov,* or at Grant Solutions at *http://www.grantsolutions.gov.* Applicants may also request kits through the HHS/OPHS Office of Grants Management, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852; telephone 1–240–453–8822 or fax 1–240–453–8823. Applicants must use Form OPHS–1.

2. Content and Form of Submission

Application: Applicants must submit a project narrative in English, along with the application forms, in the following format:

• The length of the proposal should not exceed 50 pages;
• Font size should be no smaller than 12-point, and it should be single-spaced;
• Paper size: 8.5 by 11 inches;
• Page-margin size: one inch;
• Number all pages of the application sequentially from page one (Application Face Page) to the end of the application, including charts, figures, tables, and appendices;
• Print only on one side of page; and
• Hold application together only by rubber bands or metal clips, and do not bind it in any way.

The narrative should address activities to conduct over the entire project period, and must include the following items in the order listed:

Understanding of the requirements: The application shall include a discussion of your organization's understanding of the need, purpose and requirements of this cooperative agreement. The discussion shall be sufficiently specific, detailed and complete to clearly and fully demonstrate that the applicant has a thorough understanding of all the technical requirements of this announcement.

Review of the Implementation and Progress during the first and second years: The awardee should provide a

concise, but sufficiently detailed summary, of all progress made to date during the second year of its grant collaboration with HHS. The awardee should organize its review of second-year accomplishments to follow and reference each and every one of the specific ''measurable outcomes'' specified in the second year's RFA, and describe any and all progress made on each of these measurable outcomes. If the awardee has made no progress, then it should state so. This reporting on the second year's progress made on each of the measurable outcomes should also include summarized mention of the progress made during the first year, on each of these measured outcomes. Whenever possible, any progress made on these outcomes should be quantified. And whenever possible, the awardee should make estimates of the degree of accomplishment or completion (e.g., 25%, 50%, etc.) achieved, where it has identified a quantified final goal or target for the grant.

Project Plan: The project plan must demonstrate that the organization has the technical expertise to carry out the work or task requirements of this announcement. The plan must contain sufficient detail to clearly describe the proposed means for pursuing and accomplishing each of the ''Measurable Outcomes'' and ''Grantee Activities'' described in Section I, and shall include a complete explanation of the methods and procedures the applicant will use. The project plan shall include discussions of the following elements:

○ Objectives;

○ Methods to accomplish the purposes of the cooperative agreement and the ''Grantee Activities;''

○ Detailed time line for accomplishment of each activity;

○ Ability to respond to emergencies;

○ Ability to respond to situations on weekends and after hours; and

○ Coordination with HHS, U.S. educational institutions, and NGOs.

Staffing and Management Plan: The applicant must provide a project staffing and management plan, which must include time lines and sufficient detail to ensure that it can meet the Federal Government's requirements in a timely and efficient manner.

○ The applicant must provide résumés that identify the educational and experience level of any individual(s) who will perform in a key position, and other qualifications to show the key individuals' ability to comply with the minimum requirements of this announcement;

○ The applicant must provide a summary of the qualifications of non-key personnel. Résumés must be no longer than three pages per person; and

○ The proposed staffing plan must demonstrate the applicant's ability to recruit, retain, or replace personnel who have the knowledge, experience, local-language skills, training and technical expertise commensurate with the requirements of this announcement. The plan must demonstrate the applicant's ability to provide bilingual personnel to train and mentor host-country participants for Latin America and the Caribbean.

Performance Measures: The applicant must provide measures of effectiveness that will demonstrate accomplishment of this cooperative agreement's overall objectives, and with the specific ''measurable outcomes'' delineated above. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' Section of this announcement. Measures must be objective and quantitative, and must measure the intended outcomes. The measures of effectiveness submitted with this application should refer to and build upon and improve, where possible, those submitted by the grantee in the previous year. The applicant must submit a section on measures of effectiveness with its application, and they will be an element for evaluation.

Budget Justification: The budget justification must comply with the criteria for applications. The applicant must submit, at a minimum, a cost proposal fully supported by information adequate to establish the reasonableness of the proposed amount.

Appendices: The applicant may include additional information in the application appendices, which will not count toward the narrative page limit. This additional information includes the following: *Curricula vitae*, résumés, organizational charts, letters of support, etc. An agency or organization must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Federal government. The DUNS number is a nine-digit identification number which uniquely identifies business entities. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, go to the following Internet address: *http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.dunandbradstreet.com* or call 1–866–705–5711.

Additional requirements that could require submission of additional documentation with the application appear in Section VI.2.—*Administrative and National Policy* Requirements.

3. Submission Dates and Times

To receive consideration, the Office of Grants Management within the HHS Office of Public Health and Science (OPHS), must receive applications no later than August 4, 2008. HHS will consider applications as meeting the deadline if the HHS/OPHS Office of Grants Management, c/o Grant Application Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209 receives them no later than 5 p.m., Eastern Time, on the application due date. HHS will accept applications electronically submitted through GrantSolutions.gov or Grants.Gov until 11 p.m., Eastern Time, on this date. HHS will not accept applications by fax, nor will HHS extend the submission deadline. The application due date requirement specified in this announcement supersedes the instructions in the OPHS–1. HHS will return to the applicant, unread, applications that do not meet the deadline.

Submission Mechanisms

HHS/OPHS provides multiple mechanisms for the submission of applications, as described in the following Sections. Applicants will receive notification via mail from the HHS/OPHS Office of Grants Management to confirm the receipt of applications submitted by using any of these mechanisms. HHS will not accept for review applications submitted to the HHS/OPHS Office of Grants Management after the deadlines described below. HHS will not accept for review applications that do not conform to the requirements of this grant announcement, and will return hard-copy applications to the applicant.

While HHS will accept applications in hard copy, the Department encourages the use of the electronic application-submission capabilities provided by the Grants.gov and GrantSolutions.gov systems. Applicants may only submit applications electronically via the electronic-submission mechanisms specified below. HHS will not accept for review any applications submitted via any other means of electronic communication, including facsimile or electronic mail.

All HHS funding opportunities and application kits are available on Grants.gov. If your organization has/had a grantee business relationship with a grant program serviced by the HHS/OPHS Office of Grants Management, and you are applying as part of ongoing, grantee-related activities, please use GrantSolutions.gov.

Applicants must submit electronic grant applications no later than 11 p.m., Eastern Time, on the deadline date specified in the **DATES** Section of this announcement, by using one of the electronic-submission mechanisms specified below. For applications submitted electronically, the HHS/OPHS Office of Grants Management must receive all required, hard-copy, original signatures and mail-in items c/o the Grant Application Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, no later than 5 p.m., Eastern Time, on the next business day after the deadline date specified in the **DATES** Section of this announcement.

HHS/OPHS must receive hard-copy applications no later than 5 p.m., Eastern Time, on the deadline date specified in the **DATES** Section of this announcement.

HHS will not consider applications as valid until the HHS/OPHS Office of Grants Management has received all components of the electronic application; hard-copy with original signatures, and mail-in items, according to the deadlines specified above. HHS will consider as late any application submissions that does not adhere to the due-date requirements, will deem them ineligible. Applicants should initiate electronic applications as early as possible, and should submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions Via the Grants.gov Web Site Portal

The Grants.gov Web site Portal provides organizations with the ability to submit applications for HHS grant opportunities. Organizations must successfully complete the necessary registration processes to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov.*

In addition to electronically submitted materials, applicants might have to submit hard-copy signatures for certain program-related forms, or original materials, as required by this announcement. Applicants must review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Applicants must submit separately any required, hard-copy materials, or documents that require a signature, via mail to the HHS/OPHS Office of Grants Management, at the address and time specified above; if required, these materials must contain the original signature of an individual authorized to act for the applicant and assume the obligations imposed by the terms and conditions of the grant award. When submitting the required forms, do not send the entire application. HHS will not consider for review complete, hard-copy applications submitted after the electronic submission.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative, and any appendices or exhibits. Any files uploaded or attached to the Grants.gov application must be of the following file formats—Microsoft Word, Excel or PowerPoint, Corel WordPerfect, ASCII Text, Adobe PDF, or image formats (JPG, GIF, TIFF, or BMP only). Even though Grants.gov allows applicants to attach any file format as part of their application, HHS/OPHS restricts this practice, and only accepts the file formats identified above. HHS/OPHS will not accept for processing any file submitted as part of the Grants.gov application that is not in a file format identified above, and will exclude it from the application during the review process.

HHS/OPHS must receive all required, mail-in items by the due date specified above. Mail-in items only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. HHS will not accept for review complete, hard-copy applications submitted after the electronic submission.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, applicants will receive a confirmation page from Grants.gov that indicates the date and time (Eastern Time) of the submission, as well as a Grants.gov Receipt Number. Applicants must print and retain this confirmation for their records, as well as a copy of the entire application package.

Grants.gov will validate all applications submitted via the Grants.gov Web site Portal. Any applications deemed ''invalid'' by the Grants.gov Web site Portal will not transfer to the Grant Solutions system, and HHS/OPHS has no responsibility for any application not validated and transferred to HHS/OPHS from the Grants.gov Web site Portal. Grants.gov will notify applicants regarding the validation status of applications. Once the Grants.gov Web site Portal has successfully validated an application, applicants should immediately mail all required, hard-copy materials to the HHS/OPHS Office of Grants Management, c/o Grant Application Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, by the deadlines specified above. Applicants must clearly identify their organization's name and Grants.gov Application Receipt Number on all hard-copy materials.

Once Grants.gov has validated an application, it will electronically transfer it to the Grant Solutions system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required, hard-copy mail-in items, applicants will receive notification via mail from the HHS/OPHS Office of Grants Management to confirm the receipt of the application submitted through the Grants.gov Web site Portal. Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic-application process conducted through the Grants.gov Web site Portal.

Electronic Submissions Via the Grant Solutions System

HHS/OPHS is a managing partner of the GrantSolutions.gov system. Grant Solutions is a full life-cycle grants-management system operated by the HHS Administration for Children and Families, designated by OMB as one of the three, Government-wide grants management systems under the Grants-Management Line-of-Business Initiative (GMLoB). HHS/OPHS uses Grant Solutions for the electronic processing of all grant applications, as well as the electronic management of its entire grant portfolio.

When submitting applications via the Grant Solutions system, applicants must still submit a hard copy of the face page of the application (Standard Form 424), with the original signature of an individual authorized to act for the applicant and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant. When submitting the required hard-copy forms, do not send the entire application. HHS will not consider for review complete, hard-copy applications submitted after the electronic submission. Applicants should submit hard-copy materials to the HHS/OPHS Office of Grants Management at the address specified above.

Electronic applications submitted via the Grant Solutions system must contain all completed, on-line forms required by the application kit, the Program

Narrative, Budget Narrative, and any appendices or exhibits. Applicants may identify specific, mail-in items to send to the HHS/OPHS Office of Grants Management (see mailing address above) separate from the electronic submission; however, applicants must enter these mail-in items on the Grant Solutions Application Checklist at the time of electronic submission, which HHS/OPHS must receive by the due date specified above. Mail-in items only include publications, resumes, or organizational documentation.

Upon completion of a successful, electronic submission, the Grant Solutions system will provide applicants with a confirmation page to indicate the date and time (Eastern Time) of the submission. This confirmation page will also provide a listing of all items that constitute the final application submission, including all components of the electronic application, required, hard-copy original signatures; and mail-in items.

As the HHS/OPHS Office of Grants Management receives items, it will update the electronic application status to reflect the receipt of mail-in items. HHS recommends that applicants monitor the status of their applications in the Grant Solutions system to ensure the receipt of all signatures and mail-in items.

Mailed or Hand-Delivered, Hard-Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) must submit an original, and two copies of the application. An individual authorized to act for the applicant, and to assume for the organization the obligations imposed by the terms and conditions of the grant award, must sign the original application.

HHS will consider mailed or hand-delivered applications having met the deadline if the HHS/OPHS Office of Grants Management receives them c/o Grant Application Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, on or before 5 p.m., Eastern Time, on the deadline date specified in the **DATES** Section of this announcement. The application deadline specified in this announcement supersedes the instructions in the OPHS–1. HHS/OPHS will return, unread to the applicant any application that does not meet the deadline.

4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

5. Funding Restrictions

The following cost principles of allowability, allocability, accountability reasonableness, and necessity of direct and indirect costs awardees may charge appear in the following documents, based on entity type: OMB Circular A–21 (Institutes of Higher Education); OMB Circular A–122 (Nonprofit Organizations) and 45 CFR part 74, Appendix E (Hospitals). Copies of these circulars are available on the Internet, at the following address: *http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.whitehouse.gov/omb.*

Restrictions, which applicants must take into account while preparing the budget, are as follows:

○ Alterations and renovations (A&R) are prohibited under grants/cooperative agreements to foreign recipients. This is an HHS Policy. ''Alterations and renovations'' are defined as work that changes the interior arrangements or other physical characteristics of an existing facility or of installed equipment so that it can be used more effectively for its currently designated purpose or adapted to an alternative use to meet a programmatic requirement. Recipients may not use funds for A&R (including modernization, remodeling, or improvement) of an existing building.

○ Reimbursement of pre-award costs is not allowed.

○ Recipients may not use funds awarded under this cooperative agreement to support any activity that duplicates another activity supported by any component of HHS.

Recipients may spend funds for reasonable program purposes, including personnel, travel, supplies, and services. Recipients may purchase equipment if deemed necessary to accomplish program objectives; however, they must request prior approval in an e-mail that explicitly notes the costs, and notes HHS/ASPR's approval of the explicit items for any equipment whose purchase price exceeds $10,000 USD.

The costs generally allowable in grants/cooperative agreements to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University in Beirut and the WHO Secretariat, HHS will not pay indirect costs (either directly or through sub-award) to organizations located outside the territorial limits of the United States, or to international organizations, regardless of their location.

Recipients may contract with other organizations under this program; however, the applicant must perform a substantial portion of the project activities (including program management and operations) for which it is requesting funds. Contracts will require prior approval in writing from HHS/ASPR.

Applicants shall state all requests for funds in the budget in U.S. dollars. Once HHS makes an award, HHS will not compensate foreign recipients for currency-exchange fluctuations through the issuance of supplemental awards.

The funding recipient must obtain an audit of these funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by HHS/ASPR.

A fiscal Recipient Capability Assessment may be required, prior to or post award, to review the applicant's business-management and fiscal capabilities regarding the handling of U.S. Federal funds.

6. Other Submission Requirements

None.

V. Application Review Information

1. Criteria

HHS/ASPR will evaluate applications against the following factors:

Factor 1: Project Plan (30 Points)

HHS/ASPR will evaluate the extent to which the proposal demonstrates that the organization has the technical and institutional expertise to carry out the work/task requirements described in this announcement.

HHS/ASPR will evaluate the applicant's project plan to determine the extent to which it provides a clear, logical and feasible technical approach to meeting the goals of this announcement in terms of workflow, resources, communications and reporting requirements for accomplishing work in each of the operational task areas.

Factor 2: Staffing and Management Plan (40 Points)

(a) Personnel. HHS/ASPR will evaluate the relevant educational, work experience and local-language qualifications of key personnel, senior project staff, and subject-matter specialists to determine the extent to which they meet the requirements listed in this announcement.

(b) Staffing Plan. HHS/ASPR will evaluate the staffing plan to determine the extent to which the applicant's proposed organizational chart reflects

proper staffing to accomplish the work described in this announcement, and the extent of the applicant's ability to recruit, retain, or replace personnel who have the knowledge, experience, local-language skills, training and technical expertise to meet requirements of the positions.

(c) Management Plan. HHS/ASPR will evaluate the proposed plans for managing the continued development and institutionalization of the Regional Training Center, and all its associated functions, and also the plans for accomplishing each of the other ''measurable outcomes'' specified in this RFA.

Factor 3: Performance Measures (15 Points)

HHS/ASPR will evaluate the applicant's description of performance measures, including measures of effectiveness, to determine the extent to which the applicant proposes objective and quantitative measures that relate to the performance goals stated in the ''Purpose'' Section of this announcement, and whether the proposed measures will accurately measure the intended outcomes.

Factor 4: Understanding of the Requirements (15 Points)

HHS/ASPR will evaluate the extent of the applicant's understanding of the operational tasks identified in this announcement to ensure successful performance of the work in this project. Because the focus of the work will include interaction with other countries in Central and South America and the Caribbean, the applicant must demonstrate an understanding of the cultural, ethnic, political, and economic factors that could affect successful implementation of this cooperative agreement.

The applicant's proposal must also demonstrate understanding of the functions, capabilities and operating procedures of U.S. educational institutions, as well as U.S., Latin American, Caribbean and International NGOs, and describe the applicant's ability to work with and within those organizations.

2. Review and Selection Process

HHS/ASPR will review applications for completeness. An incomplete application or an application that is non-responsive to the eligibility criteria will not advance through the review process. HHS/ASPR will notify applicants if their applications did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the AV.1. ''Criteria'' section above; the panel could include both federal and non-federal personnel.

VI. Award Administration Information

1. Award Notices

The successful applicant will receive a Notice of Award (NoA). The NoA shall be the only binding, authorizing document between the recipient and HHS. An authorized Grants Management Officer will sign the NoA, and mail it to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

2. Administrative and National Policy Requirements

A successful applicant must comply with the administrative requirements outlined in 45 CFR Part 74 and Part 92, as appropriate. Consolidated Appropriations Act for 2008, Public Law 110–161, Division G, Title V, ''General Provisions,'' Section 506, requires that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, the issuance shall clearly state the percentage and dollar amount of the total costs of the program or project to be financed with Federal money and the percentage and dollar amount of the total costs of the project or program to be financed by non-governmental sources.

3. Reporting Requirements

The applicant must provide HHS/ASPR with a hard copy, as well as an electronic copy of the following reports in English:

1. A quarterly progress report, due no later than 10 calendar days after the end of each quarter of the budget period. The quarterly progress report must contain the following elements:

a. A listing of all of the ''Activities'' and ''Measurable Outcomes'' of the Cooperative Agreement, and a summary of the actual activities and progress made with each and everyone of these activities and measurable outcomes during the quarter;

b. Disbursements requested during the quarter, and actual spending during the quarter:

c. Proposed objectives and activities for the next quarterly reporting period;

d. An update on the grant's budget, noting allocations by line item, draw down to date on each of the line items through the end of the quarter being reported upon, and the funds that remain in each line item, and overall;

e. Any additional information that may be requested by HHS/ASPR.

2. For every training course or module that is conducted, the awardee must provide the HHS/ASPR Project Officer with copies of the pre- and post-test results administered to every participant of every training class/module. The awardee should provide these pre- and post-training test results in both an aggregated (i.e., summarized) format, and in a disaggregated (i.e., individual) format. The awardee should remove participants' personal information from these reports before sharing them with HHS, to protect the privacy and anonymity of the participants. The awardee should provide these results to HHS no later than 21 calendar days after the final day of the course for which they apply.

3. An annual progress report, due no later than 15 calendar days after the end of the budget period, which must contain a detailed summary of all the elements required in the quarterly progress report described above;

4. A final performance report, due no later than 30 days after the end of the project period; and

5. A Financial Status Report (FSR) SF–269 is due 90 days after the close of the 12-month budget period.

Recipients must mail/e-mail the reports to the ASPR Project Officer listed in the ''Agency Contacts'' Section of this announcement.

VII. Agency Contacts

For program technical assistance, contact Craig Carlson, Office of Assistant Secretary for Preparedness and Response (ASPR), U.S. Department of Health and Human Services; telephone: 1–202–205–5228, e-mail: *craig.carlson@hhs.gov.*

For financial, grants-management, or budget assistance, contact Ms. Karen Campbell, Grants Management Officer, Office of Grants Management, Office of Public Health and Science, U.S. Department of Health and Human Services, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852; telephone: 1–240–453–8822, e-mail Address: *karen.campbell@hhs.gov.*

Dated: June 26, 2008.

RADM William C. Vanderwagen,

Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services.

[FR Doc. E8–15120 Filed 7–2–08; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–08–0260]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Health Hazard Evaluation and Technical Assistance—Requests and Emerging Problems—Reinstatement (OMB No. 0920–0260)—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In accordance with its mandates under the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977, the National Institute for Occupational Safety and Health (NIOSH) responds to requests for health hazard evaluations (HHE) to identify chemical, biological or physical hazards in workplaces throughout the United States. Each year, NIOSH receives approximately 400 such requests. Most HHE requests come from the following types of companies: Service, manufacturing companies, health and social services, transportation, construction, agriculture/mining, skilled trade and construction.

A printed Health Hazard Evaluation request form is available in English and in Spanish. The form is also available on the Internet and differs from the printed version only in format and in the fact that it uses an Internet address to submit the form to NIOSH. Both the printed and Internet versions of the form provide the mechanism for employees, employers, and other authorized representatives to supply the information required by the regulations governing the NIOSH Health Hazard Evaluation program (42 CFR 85.3–1). In general, if employees are submitting the form it must contain the signatures of three or more current employees. However, regulations allow a single signature if the requester: is one of three (3) or fewer employees in the process, operation, or job of concern; or is any officer of a labor union representing the employees for collective bargaining purposes. An individual management official may request an evaluation on behalf of the employer. The information provided is used by NIOSH to determine whether there is reasonable cause to justify conducting an investigation and provides a mechanism to respond to the requester. In the case of 25% to 50% of the health hazard evaluation requests received, NIOSH determines an on-site evaluation is needed. The primary purpose of an on-site evaluation is to help employers and employees identify and eliminate occupational health hazards. In most on-site evaluations employees are interviewed to help further define concerns, and in approximately 50% these evaluations (presently estimated to be about 100 facilities), questionnaires are distributed to the employees (averaging about 40 employees per site for this last subgroup). The interview and survey questions are specific to each workplace and its suspected diseases and hazards, however, items are derived from standard medical and epidemiologic techniques.

NIOSH distributes interim and final reports of health hazard evaluations, excluding personal identifiers, to: Requesters, employers, employee representatives; the Department of Labor (Occupational Safety and Health Administration or Mine Safety and Health Administration, as appropriate); and, as needed, other state and federal agencies.

NIOSH administers a follow-back program to assess the effectiveness of its health hazard evaluation program in reducing workplace hazards. This program entails the mailing of follow-back questionnaires to employer and employee representatives at all the workplaces where NIOSH conducted site visits. In a small number of instances, a follow-back on-site evaluation may be conducted. The initial follow-back questionnaire is administrated immediately following the site visits. Another follow-back questionnaire is sent a year later. A final follow-back questionnaire regarding the completed evaluation is sent.

For requests where NIOSH does not conduct an onsite evaluation, the requester is sent a follow-back questionnaire 12 months after NIOSH's response and a second one at 24 months. Because of the large number of investigations conducted each year, the need to respond quickly to requests for assistance, the diverse and unpredictable nature of these investigations, and its follow-back program to assess evaluation effectiveness; NIOSH requests an umbrella clearance for data collections performed within the domain of its health hazard evaluation program. There are no costs to respondents other than their time. The total estimated annualized burden hours are 4007.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average Burden per response in hours
Employees and Representatives	Health Hazard Evaluation Request Form	302	1	12/60
Employers	Health Hazard Evaluation Request Form	118	1	12/60
Employees	Health Hazard Evaluation specific interview example.	4200	1	15/60
Employees	Health Hazard Evaluation specific questionnaire example.	4440	1	30/60
Followback for onsite evaluations for Management, Labor and Requester.	Initial Site Visit survey form	840	1	15/60
Followback for onsite evaluations for Management, Labor and Requester.	Closeout for HHE with an OnSite Evaluation	840	1	15/60
Followback for onsite evaluations for Management, Labor and Requester.	1 year Later HHE with an On Site Evaluation	840	1	15/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average Burden per response in hours
Followback for evaluations for Management, Labor and Requester without onsite evaluation.	Followback I Survey cover letter and Forms	55	1	10/60
Followback for evaluations for Management, Labor and Requester without onsite evaluation.	Followback II Survey Cover Letter and Forms	55	1	15/60

Dated: June 27, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–15179 Filed 7–2–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–08–0630]

Agency Forms Undergoing Paperwork Reduction Act Review

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Proposed Project

Work Organization Predictors of Depression in Women—Reinstatement—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Depression is a costly and debilitating occupational health problem. Research has indicated that the costs to an organization of treatment for depression can rival those for heart disease, and both major depressive disorder and forms of minor depression have been found to be associated with more disability days than other types of health diagnoses. This may be of particular relevance for working women. Various national and international studies indicate that women in developed countries experience depression at up to twice the rate of men. Studies that have examined this gender difference have focused on social, personality, and genetic explanations while few have explored factors in the workplace that may contribute to the gender differential. Examples of workplace factors that may contribute to depression among women include: additive workplace and home responsibilities, lack of control and authority, and low paying and low status jobs. Additionally, women are much more likely to face various types of discrimination in the workplace than men, ranging from harassment to inequalities in hiring and promotional opportunities, and these types of stressors have been strongly linked with psychological distress and other negative health outcomes. On the positive side, organizations that are judged by their employees to value diversity and employee development engender lower levels of employee stress, and those that enforce policies against discrimination have more committed employees. Such organizational practices and policies may be beneficial for employee mental health, particularly the mental health of women.

This research focuses on the following questions: (1) Which work organization factors are most predictive of depression in women, and (2) are there measurable work organization factors that confer protection against depression in women employees?

The research uses a repeated measures, prospective design with data collection at three points (baseline and eighteen months follow-ups). A 45-minute survey is being administered by telephone to 314 women and men at 16 different organizations. The survey contains questions about traditional job stressors (e.g., changes in workload, social support, work roles), stressors not traditionally examined, but which may be linked with depressive symptoms among women (e.g., roles and responsibilities outside of the workplace, discrimination, career issues) depression symptoms, and company policies, programs and practices. Analyses will determine which work organization factors are linked with depressive symptoms and what effect the organizational practices/policies of interest have on depression. Findings from this prospective study will also help target future intervention efforts to reduce occupationally-related depression in women workers. There will be no cost to respondents. The estimated annualized burden for this data collection is 236 hours.

ESTIMATED ANNUALIZED BURDEN

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Employees	314	1	45/60

Dated: June 27, 2008.

Maryam Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–15180 Filed 7–2–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–0237]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of data collection plans and instruments, call the CDC Reports Clearance Officer on 404–639–5960 or send comments to CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

The National Health and Nutrition Examination Survey (NHANES)—(0920–0237)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability; environmental, social and other health hazards; and determinants of health of the population of the United States. This three-year clearance request includes the data collection in 2009 and 2010 and data planning and testing activities for 2011–2012 data collection.

The National Health and Nutrition Examination Survey (NHANES) was conducted periodically between 1970 and 1994, and continuously since 1999 by the National Center for Health Statistics, CDC. Almost 19,000 persons are screened, with about 5,000 participants interviewed and examined annually. Participation in NHANES is completely voluntary and confidential.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the general population. Through the use of questionnaires, physical examinations, and laboratory tests, NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors related to health such as arthritis, asthma, osteoporosis, infectious diseases, diabetes, high blood pressure, high cholesterol, obesity, smoking, drug and alcohol use, physical activity, environmental exposures, and diet. NHANES data are used to produce national reference data on height, weight, and nutrient levels in the blood. Results from more recent NHANES can be compared to findings reported from previous surveys to monitor changes in the health of the U.S. population over time. NHANES continues to collect genetic material on a national probability sample for future genetic research aimed at understanding disease susceptibility in the U.S. population.

NHANES data users include the U.S. Congress; the World Health Organization; numerous Federal agencies such as the National Institutes of Health, the Environmental Protection Agency, and the United States Department of Agriculture; private groups such as the American Heart Association; schools of public health; private businesses; individual practitioners; and administrators. NHANES data are used to establish, monitor, and/or evaluate recommended dietary allowances, food fortification policies, environmental exposures, immunization guidelines and health education and disease prevention programs. This submission requests approval for three years.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
1. NHANES respondents	18,813	1	2	37,626
2. Special study/pretest participants	4,000	1	3	12,000
Total				49,626

Dated: June 27, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Office of the Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–15183 Filed 7–2–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Study Team for the Los Alamos Historical Document Retrieval and Assessment (LAHDRA) Project

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Public Meeting of the Study Team for the Los Alamos Historical Document Retrieval and Assessment Project.

Time and Date: 5 p.m.–7 p.m., (Mountain Time), Wednesday, July 23, 2008.

Place: Cities of Gold Hotel, Nambe Conference Room, Cities of Gold Road exit in Pojoaque (15 miles north of Santa Fe on U.S. 84/285), 10–A Cities of Gold Road, Santa Fe, New Mexico 87506, telephone (505) 455–0515, fax (505) 455–3060.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 200 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with the Department of Energy (DOE) and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between the Agency for Toxic Substances and Disease Registry (ATSDR) and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or a Superfund). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This study group is charged with locating, evaluating, cataloguing, and copying documents that contain information about historical chemical or radionuclide releases from facilities at the Los Alamos National Laboratory (LANL) since its inception. The purpose of this meeting is to review the goals, methods, and schedule of the project, discuss progress to date, provide a forum for community interaction, and serve as a vehicle for members of the public to express concerns and provide advice to CDC.

Matters To Be Discussed: Agenda items include a presentation from the National Center for Environmental Health (NCEH) and its contractor regarding the status of project work and a summary of recent activities, such as reviews of documents held by LANL groups and divisions and information gathering that has targeted key information gaps that remain. Activities that will be undertaken to complete work by the LAHDRA contractor team within 2009 will be described. There will also be a photographic display and brief presentation by Peter Malmgren of Chimayo, New Mexico, regarding his ''Los Alamos Revisited'' oral history project. A representative of the Radiation Exposure Screening and Education Program (RESEP) has been invited to review the goals and activities of that program. Administered by the Federal Health Resources and Services Administration, RESEP helps individuals who live (or lived) in areas where U.S. nuclear weapons testing occurred. There will be time for public input, questions, and comments. All agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Phillip R. Green, Public Health Advisor, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway NE., (Mailstop F–58), Atlanta, Georgia 30341–3717, telephone (770) 488–3748, fax (770) 488–1539, e-mail address: *prg1@cdc.gov*.

Dated: June 26, 2008.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. E8–15109 Filed 7–2–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Numbers as Follow]

Closed-Circuit Self-Contained Breathing Apparatus—NIOSH Docket # 039; Supplied Air Respirators—NIOSH Docket # 083; Reevaluation of NIOSH Limitations on and Precaution for Safe Use of Positive-Pressure Closed-Circuit Self-Contained Breathing Apparatus—NIOSH Docket # 123; CBRN APR Mechanical Connector Design—NIOSH Docket # 139

AGENCY: The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the availability of the following public meeting to discuss current respirator standards development projects for Closed-Circuit Self-Contained Breathing Apparatus; Supplied Air Respirators; Reevaluation of NIOSH Limitations on and Precaution for Safe Use of Positive-Pressure Closed-Circuit Self-Contained Breathing Apparatus; and the Mechanical Connector Design Used in the Chemical Biological Radiological and Nuclear (CBRN) Air-Purifying Respirator (APR).

Authority: Occupational Safety and Health Act, 29 U.S.C. 651 *et seq.* There will be an opportunity for discussion following NIOSH's presentations and an accompanying poster session.

Public Meeting Time and Date: 8:30 a.m.–4:30 p.m. EDT, August 20, 2008. On-site registration will be held from 7:45 a.m. until 8:30 a.m.

Place: Sheraton Station Square, 300 West Station Square Drive, Pittsburgh, Pennsylvania 15219–1122. Interested parties should make hotel reservations directly with the Sheraton Station Square, telephone (412) 803–3865, before the cut-off date of July 22, 2008. You must reference the NIOSH/NPPTL public meeting to receive the special group rate of $108.00 per night that has

been negotiated for meeting guests. Driving directions can be found at *http://www.starwoodhotels.com/sheraton/property/area/directions.html?propertyID=693.*

Status: The meeting will be open to the public, limited only by the space available. The meeting room accommodates approximately 200 people.

Requests to make presentations at the public meeting should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, 4676 Columbia Parkway, M/S C34, Cincinnati, Ohio 45226, telephone (513) 533–8303, facsimile (513) 533–8285, or e-mailed to *nioshdocket@cdc.gov.* All requests to present should contain the name, address, and telephone number, relevant business affiliations of the presenter, a brief summary of the presentation, and the approximate time requested for the presentation. Oral presentations should be limited to 15 minutes.

After reviewing the requests for presentations, NIOSH will notify each presenter of the approximate time that their presentation is scheduled to begin. If a participant is not present when their presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make a presentation may be given this opportunity at the conclusion of the meeting, at the discretion of the presiding officer.

Background: National Personal Protective Technology Laboratory (NPPTL), National Institute for Occupational Safety and Health (NIOSH) will present information to attendees concerning the development of the concepts and priorities being considered for the development of standards for the various classes of respirators. Participants will be given an opportunity to ask questions and to present individual comments that they may wish to have considered.

Contact Person for Technical Information: Jonathan V. Szalajda, General Engineer, The National Personal Protective Technology Laboratory (NPPTL), Policy and Standards Development Branch, Post Office Box 18070, 626 Cochrans Mill Road, Pittsburgh, Pennsylvania 15236, telephone (412) 386–5200, facsimile (412) 386–4089, e-mail *npptlevents@cdc.gov.* Information regarding documents that will be discussed at the meeting may be obtained from the NIOSH Web site using this link: *http://www.cdc.gov/niosh/review/public/* using the NIOSH docket numbers listed above.

Dated: June 26, 2008.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–15107 Filed 7–2–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–37 and CMS–R–43]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Program Budget Report; *Use:* The Medicaid Program Budget Report is prepared by the State Medicaid agencies and is used by CMS for developing national Medicaid budget estimates, qualification of budget estimate changes, and the issuance of quarterly Medicaid grant awards.

Form Number: CMS–37 (OMB# 0938–0101); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 224; *Total Annual Hours:* 7,616.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Conditions of Participation for Portable X-ray Suppliers and Supporting Regulations in 42 CFR 486.104, 486.106, 486.110; *Use:* These requirements contained in this information collection request are classified as conditions of participation or conditions for coverage. These conditions are based on a provision specified in law relating to diagnostic X-ray tests ''furnished in a place of residence used as the patient's home,'' and are designed to ensure that each supplier has a properly trained staff to provide the appropriate type and level of care, as well as, a safe physical environment for patients. CMS uses these conditions to certify suppliers of portable X-ray services wishing to participate in the Medicare program. This is standard medical practice and is necessary in order to help to ensure the well-being, safety and quality professional medial treatment accountability for each patient. *Form Number:* CMS–R–43 (OMB# 0938–0338); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 726; *Total Annual Responses:* 726; *Total Annual Hours:* 1,815.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *August 4, 2008.*

OMB Human Resources and Housing Branch, Attention: OMB Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395–6974.

Dated: June 26, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–15150 Filed 7–2–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–8003, CMS–10268, and CMS–855(A,B,I,R)]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Home and Community Based Waiver Requests and Supporting Regulations in 42 CFR 440.180 and 441.300–310; *Use:* Under a Secretarial waiver, States may offer a wide array of home and community-based services to individuals who would otherwise require institutionalization. States requesting a waiver must provide certain assurances, documentation and cost and utilization estimates which are reviewed, approved and maintained for the purpose of identifying/verifying States' compliance with such statutory and regulatory requirements. *Form Number:* CMS–8003 (OMB# 0938–0449); *Frequency:* Occasionally; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 50; *Total Annual Responses:* 136; *Total Annual Hours:* 8,010.

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Consolidated Renal Operations in a Web Enabled Network (CROWNWeb) Third-party Submission Authorization Form; *Use:* The Consolidated Renal Operations in a Web Enabled Network (CROWNWeb) Third-Party Submission Authorization form is to be completed by ''Facility Administrators'' (administrators of CMS-certified dialysis facilities) if they intend to authorize a third party (a business with which the facility is associated, or an independent vendor) to submit data to CMS to comply with the recently revised Conditions for Coverage of dialysis facilities. The CROWNWeb system is the system used as the collection point of data necessary for entitlement of ESRD patients to Medicare benefits and for Federal Government monitoring and assessing of the quality and types of care provided to renal patients. The information collected through the CWTPSA form will allow CMS and its contractors to receive data from authorized parties acting on behalf of CMS-certified dialysis facilities. CMS anticipates that roughly 3000 signed forms will be received by February 2009, and that the total number of forms may reach 5100 by February 2012. *Form Number:* CMS–10268 (OMB# 0938–New); *Frequency:* Monthly; *Affected Public:* Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 5,100; *Total Annual Responses:* 5,100; *Total Annual Hours:* 425.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Enrollment Application; *Form Number:* CMS–855 (A, B, I, R)(OMB#: 0938–0685); *Use:* The primary function of the Medicare enrollment application is to gather information from a provider or supplier that tells us who it is, whether it meets certain qualifications to be a health care provider or supplier, where it practices or renders its services, the identity of the owners of the enrolling entity, and information necessary to establish correct claims payments. We are revising this currently approved information collection. The goal of the revisions to this information collection request (ICR) is to adjust the burden associated with this ICR to account for the removal of the CMS–855(S) application. *Frequency:* Recordkeeping and Reporting—On occasion; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 400,000; *Total Annual Responses:* 400,000; *Total Annual Hours:* 785,702.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by September 2, 2008:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 26, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–15152 Filed 7–2–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; The Agricultural Health Study: A Prospective Cohort Study of Cancer and Other Disease Among Men and Women in Agriculture (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 30, 2008 (Vol. 73, No. 84, p. 23473), and allowed 60 days for public comment. No public comments or questions were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an

information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: The Agricultural Health Study: A Prospective Cohort Study of Cancer and Other Disease Among Men and Women in Agriculture (NCI) (OMB#: 0925–0406). *Type of Information Collection Request:* Renewal. *Need and Use of Information Collection:* The purpose of this information collection is to continue and complete updating the occupational and environmental exposure information as well as medical history information for respondents enrolled in the Agriculture Health Study. This represents a request to continue and complete phase III (2005–2008) of the study. Due to reduced annual budgets for research, a delay in data collection has resulted and there has not been enough time to complete the data collection on the number of respondents that had been originally requested in the 2005 OMB submission. The primary objectives of the study are to determine the health effects resulting from occupational and environmental exposures in the agricultural environment. The data will be collected by using a computer assisted telephone interview (CATI) system. A small percentage of the respondents will also be asked to participate in a buccal cell collection which is a sample of loose cells from the respondent's mouth. The findings will provide valuable information concerning the potential link between agricultural exposures and cancer and other chronic diseases among agricultural Health Study cohort members, and this information may be generalized to the entire agricultural community. *Frequency of Response:* Once. *Affected Public:* Private sector, farms. *Type of Respondents:* Licensed pesticide applicators and their spouses. The annual reporting burden is as follows:

ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondent	Instrument	Estimated number of respondents	Frequency of response	Average time per response (Minutes/hour)	Annual burden hours
Private Applicators	Interview Only	2,920	1.00	35/60	1,703.33
	Interview & buccal cells	83	1.00	60/60	83.00
Spouses	Interview Only	2,680	1.00	35/60	1,563.33
	Interview & buccal cells	165	1.00	60/60	165.00
Commercial Applicators	Interview Only	930	1.00	35/60	542.50
	Interview & buccal cells	83	1.00	60/60	83.00
Totals		6,861			4,140.17

The annualized cost to respondents is estimated at $109,652, which amount to a total cost of $1,348,000 over three years. There are no capital costs, operating costs, and/or maintenance costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Attention: NIH Desk Officer, Office of Management and Budget, at *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Michael Alavanja, Dr.P.H, Occupational and Environmental Epidemiology Branch, Division of Cancer Epidemiology and Genetics, National Cancer Institute, NIH, Executive Plaza South, Room 8000, 6120 Executive Blvd., Rockville, MD 20892 or call 301–496–9093 or e-mail your request, including your address to: *alavanjm@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 25, 2008.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison Office, National Institutes of Health.

[FR Doc. E8–15072 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Tendon Stem Cells

Description of Technology: Tendon injuries due to trauma and overuse are common clinical problems that result in significant pain and loss of mobility. Tendon injuries are slow to heal and the healed tendon rarely matches the original in mechanical strength and structural integrity. Due to a limited understanding of basic tendon biology, development of new treatment options for injured tendons has posed significant challenges.

This invention relates to a cell based therapy. Specifically, it relates to the isolation and enrichment of stem cells from adult tendons, known as tendon stem progenitor cells, that can form tendon structures and are capable of integrating into bones to form enthesis-like structures. Two extra-cellular matrix proteoglycans, biglycan and fibromodulin, further assist in the maintenance and multiplication of these tendon stem cells.

Applications:

Treatment of damaged tendons that are slow to repair after injury.

May remedy other pathological conditions that are caused by ectopic calcification such as ectopic calcification that occurs around artificial heart valves or that develops in the rare inherited disease, Fibrodysplasia Ossificans Progressiva (FOP).

Development Status: Early stage.

Inventors: Marian Young *et al.* (NIDCR).

Patent Status: U.S. Provisional Application No. 60/934,606 filed 14 Jun 2007 (HHS Reference No: E–233–2007/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301–435–4521; *Fatima.Sayyid@nih.hhs.gov.*

Collaborative Research Opportunity: The NIDCR, Molecular Biology of Bones and Teeth Section is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the use of tendon stem cells. Please contact Marian Young at 301–496–8860 or *myoung@dir.nidcr.nih.gov.*

A2 Adenosine Receptor Agonists

Description of Technology: Four adenosine receptor subtypes exist, namely A_1, A_{2A}, A_{2B} and A_3, each with different functions, tissue distributions and ligand coupling abilities. While activation of A_{2B} AR can induce angiogenesis, reduce vascular permeabilization, increase production of the anti-inflammatory cytokine IL–10, increase chloride secretion in epithelial cells or increase release of inflammatory mediators from human and canine mast cells, there still remains a need for A_{2B} receptor agonists for clinical use.

Recognizing that an unmet medical need exists, the inventors synthesized an assortment of adenosine derivatives with the goal of preparing highly potent and selective A_{2B} receptor agonists. They identified a compound as a full agonist at the A_{2A} and A_{2B} adenosine receptors, capable of reducing infarct size in rabbit hearts induced by 30 minutes of ischemia. As activation of A_{2A} and A_{2B} receptors induces a cardioprotective effect and this compound activates both A_{2A} and A_{2B} receptors, this compound may be beneficial for protecting against myocardial ischemia/reperfusion injury.

Available for licensing and commercial development are compositions and methods of use of A_2 adenosine receptor (AR) agonists for treating conditions modulated by A_{2A} and A_{2B} ARs including myocardial ischemia, reperfusion injury, cystic fibrosis, erectile dysfunction, inflammation, restenosis and septic shock.

Applications:

Potential treatment for heart attacks.

Potential treatment of septic shock, cystic fibrosis and erectile dysfunction.

Potential treatment for medical conditions that would benefit from changes in vascular tone.

Market: Heart disease is the number one cause of death in the United States, and the most frequent cause of hospital admission for patients over 65 years of age.

Development Status: Early-stage of development.

Inventors: Kenneth A. Jacobson et al. (NIDDK).

Patent Status:

U.S. Provisional Application No. 60/947,066 filed 29 Jun 2007 (HHS Reference No. E–218–2007/0–US–01).

U.S. Provisional Application No. 60/950,250 filed 17 Jul 2007 (HHS Reference No. E–218–2007/1–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Charlene A. Sydnor, PhD.; 301–435–4689; *sydnorc@mail.nih.gov.*

Collaborative Research Opportunity: The NIDDK Laboratory of Bioorganic Chemistry is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize A_{2A} and A_{2B} adenosine receptor agonists. Please contact Rochelle S. Blaustein at 301–451–3636 or *Rochelle.Blaustein@nih.gov* for more information.

Therapeutic Application of Fatty Acid Amide Hydrolase Inhibitors

Description of Technology: The enzyme fatty acid amide hydrolase (FAAH) is responsible for the degradation of the lipid anandamide. This is a cannabinoid naturally secreted from both the brain and body. Cannabinoid receptors mediate blood pressure, pain sensation, hunger and anxiety among other actions. Drugs inhibiting FAAH increase cannabinoid receptor activity in a manner distinct from cannabinoid agonists to treat hypertension, relieve pain or have other therapeutic effect with lessened side effects.

Applications:

Treat hypertension and accompanying cardiac hypertrophy.

Treatment of anxiety.

Treatment of glaucoma.

As a pain reliever or sleep aid.

Market:

It is estimated that nearly a third of U.S. adults have high blood pressure. Despite the lack of symptoms, treatment is imperative. People with untreated high blood pressure have an increased chance of developing stroke, heart attack, heart failure or kidney failure.

The forecast of the world hypertension market is that it will grow to nearly $30 billion per year by 2010.

Development Status: Pre-clinical data available.

Inventors: George Kunos (NIAAA) *et al.*

Publication: Bátkai S, Pacher P, Osei-Hyiaman D, Radaeva S, Liu J, Harvey-White J, Offertáler L, Mackie K, Rudd MA, Bukoski RD, Kunos G. Endocannabinoids acting at cannabinoid-1 receptors regulate cardiovascular function in hypertension. Circulation. 2004 Oct 5;110(14):1996–2002.

Patent Status: U.S. Provisional Application No. 60/998,661 filed 12 Dec 2007 (HHS Reference No. E–211–2006/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Norbert Pontzer, J.D., PhD.; 301–435–5502; *pontzern@mail.nih.gov.*

Collaborative Research Opportunity: The NIAAA Laboratory of Physiologic Studies is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize fatty acid amide hydrolase inhibitors. Please contact Peter B. Silverman (*psilverm@mail.nih.gov*) for more information.

Dated: June 27, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–15178 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A Prophylactic and Therapeutic for Preventing and Treating Tularemia by Rapid Activation of Host Cells and Antigen Recognition

Description of Technology: The invention is a composition and method for prophylactic and therapeutic treatment of tularemia caused by *Francisella tularensis* comprised of Cationic Liposome DNA Complexes (CLDC) complexed with noncoding DNA and membrane antigens isolated from *F. tularensis* strain LVS (MPF). *F. tularensis* is category A pathogen (as designated by the NIH) that was previously weaponized by both the former Soviet Union and the United States of America and is currently a potential bioweapon and bioterrorism threat. Furthermore, tularemia is endemic to the U.S. (majority of the cases occurring in the Midwest) and Europe. The prophylactic and therapeutic activities of this invention rely in part on rapid activation of host cells and recognition of bacterial antigens. *In vivo* studies in mice show that CLDC + MPF elicit protective immunity against pneumonic tularemia when administered shortly (days) prior to exposure to aerosols of virulent *F. tularensis.* The method can be applicable for eliciting immune response in other infectious diseases.

Applications:

Prophylactic and therapeutic for Tularemia.

Biodefense agent.

Method is applicable to other infectious diseases, particularly for pathogens that are enveloped or encapsulated (i.e. *Pseudomonas aeruginosa, Neisseria meningiditis, Yersinia pestis* and Influenza).

Advantages:

Rapid induction of protective immunity against *F. tularensis.*

Avoids antibiotic resistance associated with current therapies.

Development Status: In vitro and *in vivo* data are available.

Market:

Prophylactic and treatment for tularemia and other infectious diseases.

Biodefense.

Inventors: Catherine M. Bosio (NIAID).

Publication: PowerPoint slide presentation of invention can be provided upon request.

Patent Status: U.S. Provisional Application No. 61/030,984 filed 24 Feb 2008 (HHS Reference No. E–095–2008/0–US–01).

Licensing Status: This invention is available for exclusive or non-exclusive licensing.

Licensing Contact: Sally Hu, PhD.; 301–435–5606, *HuS@mail.nih.gov.*

A New Method for Screening of Anti-tumor Agents

Description of Technology: Astrocytomas and glioblastoma multiforme are the most common forms of malignant brain cancer, and are often unresponsive to surgical removal and pharmacological therapy. The 5 year survival rate of glioblastoma is 5%, thus, making it necessary for the identification of more effective anti-tumor agents. Individuals with the familial cancer syndrome neurofibromatosis type 1 are predisposed to developing multiple tumors including astrocytoma and glioblastoma.

Scientists at NCI have discovered a new technology that will help screen multiple anti-tumor and anti-neurofibromatosis agents in a high throughput assay by using an astrocytoma cell line (KR158) that expresses the luciferase gene under the influence of dual promoters, E2F and CMV.

This new technology distinguishes between cytostatic and cytotoxic compounds, thereby significantly reducing the time and cost required to screen anti-tumor agents.

Advantages:

Quantifiable.

Can be used in high throughput assays.

Distinguishes between cytostatic and cytotoxic activity of compounds.

Applications:

Cancer therapeutics.

Gene therapy.

Screening of anti-tumor agents.

Screening of anti-neurofibromatosis agents.

Pharmacology of drugs.

Market: Neurofibromatoses is inherited by many affected individuals and occurs in 1 in 3500 individuals. In addition, between 30 and 50 percent of new cases arise spontaneously through mutation in an individual's genes which can then be passed on to succeeding generations, leading to increased tumor risk. Astrocytomas and glioblastoma multiforme are the most common malignant brain tumor in adults with very poor prognosis.

Development Status: Late-stage.

Inventors: Jessica J. Hawes and Karlyne M. Reilly (NCI).

Patent Status: HHS Reference No. E–038–2008/0—Research Tool. Patent protection is not being sought for this technology.

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: John Stansberry, Ph.D.; 301–435–5236; *stansbej@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute Mouse Cancer Genetics Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize anti-astrocytoma or anti-neurofibromatosis therapy. Please contact John D. Hewes, PhD., at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

A Novel Therapeutic Strategy for the Treatment of Hyperpigmentation and Melanoma

Description of Technology: The present invention describes that the transcription factor SOX9 is expressed by normal human melanocytes *in vitro* and in the skin *in vivo*, and that over-expression of SOX9 decreases the proliferation of mouse and human melanoma cell lines via several pathways. Furthermore, SOX9 (or its

bioactive derivatives) appears to be potentially useful in inducing skin pigmentation, may inhibit the proliferation of melanoma cells and increase their sensitivity to retinoic acid, which could be used to treat melanoma.

Advantages and Applications:

SOX9 (or its bioactive derivative) might be useful in increasing skin pigmentation in acquired hypopigmentary disorders such as vitiligo (1–2% of world population) or post-inflammatory hypopigmentation.

A novel gene therapy based treatment for Melanoma: Experimental results show that cells over-expressing SOX9 do not form tumors in human skin reconstructs or in mice as do wild type or GFP-transduced melanoma cells.

SOX–9 therapy in combination with retinoic acid can be an effective therapeutic strategy for treating melanoma.

Development Status: The technology is currently in the pre-clinical stage of development. Animal studies have been performed and the inventors are currently pursuing gene therapy approaches with SOX9 which may be useful in the treatment of melanoma.

Inventors: Vincent J. Hearing and Thierry Passeron (NCI).

Patent Status: U.S. Provisional Application No. 60/963,280 filed 03 Aug 2007 (HHS Reference No. E–150–2007/0–US–01).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Whitney Hastings, Ph.D.; 301–451–7337; *hastingw@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute Laboratory of Cell Biology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the regulation of SOX9 function as a strategy to treat melanoma, modulate skin pigmentation and/or ameliorate skin pigmentary disorders. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Method for Predicting and Detecting Tumor Metastasis

Description of Technology: Detecting cancer prior to metastasis greatly increases the efficacy of treatment and the chances of patient survival. Although numerous biomarkers have been reported to identify aggressive tumor types and predict prognosis, each biomarker is specific for a particular type of cancer, and no universal marker that can predict metastasis in a number of cancers has been identified. In addition, due to a lack of reliability, several markers are typically required to determine the prognosis and course of therapy.

Available for licensing are carboxypeptidase E (CPE) inhibitor compositions and methods to prognose and treat cancer as well as methods to determine the stage of cancer. The inventors discovered that CPE expression levels increase according to the presence of cancer and metastasis wherein CPE is upregulated in tumors and CPE levels are further increased in metastatic cancer. This data has been demonstrated both in vitro and in vivo experiments and in liver, breast, prostate, colon, and head and neck cancers. Metastatic liver cells treated with CPE siRNA reversed the cells from being metastatic and arrested cells from further metastasis. Thus, CPE as a biomarker for predicting metastasis and its inhibitors have an enormous potential to increase patient survival.

Applications:

Method to prognose multiple types of cancer and determine likelihood of metastasis.

Compositions that inhibit CPE such as siRNA.

Method to prevent and treat cancer with CPE inhibitors.

Market:

An estimated 1,437,180 new cases and 565,650 deaths from cancer are projected to occur in the U.S. in 2008;

Global cancer market is worth more than eight percent of total global pharmaceutical sales;

Cancer industry is predicted to expand to $85.3 billion by 2010.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Y. Peng Loh (NICHD) *et al.*

Publication: Manuscript in preparation.

Patent Status: PCT Application No. PCT/US2008/051438 filed 18 Jan 2008, claiming priority to 19 Jan 2007 (HHS Reference No. E–096–2007/3–PCT–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301–435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute for Child Health and Human Development, Section on Cellular Neurobiology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize CPE as a biomarker for predicting metastasis. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Novel O-GLcNAcase Inhibitor and Fluorogenic Substrate as a Tool for Diagnosing Type 2 Diabetes

Description of Technology: NIH researchers have synthesized a novel analogue of O-(2-acet-amido-2-deoxy-D-glycopyrano-sylidene)amino-N-phenylcarbamate (PUGNAc), which bears an extension on the N-acetyl moiety. This modified PUGNAc acts as a selective inhibitor of O-GlcNAcase; an enzyme that removes N-acetylglucosamine from nuclear and cytoplasmic proteins, and whose inhibition is associated with the development of Type 2 diabetes. The most desirable feature of this new compound is its ability to specifically inhibit O-GlcNAcase without targeting the related hexosaminidase A (HEX A) and hexoaminidase B (HEX B) enzymes. This unique property distinguishes it from the original PUGNAc and other compounds which inhibit O-GlcNAcase as well as other enzymes. It also has a smaller inhibitory effect on O-GlcNAcase compared to the original PUGNAc. These properties make the modified PUGNAc useful for diagnostic or therapeutic applications involving Type 2 diabetes.

A fluorescent derivative of the modified PUGNAc has also been developed. Modified PUGNAc, conjugated to a fluorescent moiety such as 4-methylumbelliferone, can serve as a substrate for O-GlcNAcase without inhibiting HEX A. This allows the fluorescently labeled compound to be used for measuring O-GlcNAcase enzyme activity, and thus provide a means of diagnosing Type 2 diabetes in human blood or tissue samples. Previous reagents have monitored other Type 2 diabetes related enzymes, but with much less specificity. Recent studies that link mutations of the MGEA5 gene (which codes for O-GlcNAcase) to Type 2 diabetes provide further support for the use of the fluorescent derivative as a potent tool for diagnosing the disease. The fluorogenic derivative may also be used as a novel imaging agent for assessing O-GlcNAcase function *in-vivo.*

Applications:

Diagnosis of type 2 diabetes.

In vivo imaging of O-GlcNAcase enzyme function.

Development Status: Early stage.

Inventors: John A. Hanover *et al.* (NIDDK).

Publication: Eun Ju Kim, Melissa Perreira, Craig J. Thomas, and John A. Hanover. An O-GlcNAcase-specific inhibitor and substrate engineered by the extension of the N-acetyl moiety. J. Am. Chem. Soc. 2006 Apr 5;128(13):4234–4235.

Patent Status: U.S. Patent Application No. 11/654,647 filed 18 Jan 2007 (HHS Reference No. E–229–2006/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jasbir (Jesse) S. Kindra, J.D., M.S.; 301–435–5170; *kindraj@mail.nih.gov.*

Collaborative Research Opportunity: The NIDDK Laboratory of Cell Biochemistry and Biology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize modified PUGNAc for prevention or treatment of Type 2 diabetes. Please contact Rochelle Blaustein at 301–451–3636 or *Rochelle.Blaustein@nih.gov* for more information.

Use of Human Gamma Satellite Insulator Sequences To Prevent Gene Silencing and Allow for Long Term Expression of Integrated Transgenes

Description of Technology: The lack of stable expression of transgenes in target cell lines remains a serious problem for gene therapy and cellular reprogramming approaches. Once integrated into chromosomes, the expression of these transgenes may be regulated by epigenetic effects of the surrounding chromatin. These position effects, which include transgene silencing and expression variegation, are often associated with changes in the chromatin structure, and are capable of inhibiting gene expression and neutralizing the intended effect of the inserted transgene.

Experimental results suggest that gene position effects can be partially overcome by flanking the transgene with regulatory elements called chromatin insulators which work by establishing defined domains of transcriptional activity within the eukaryotic genome. These insulators can partially overcome position effects by shielding the promoters from the influence of neighboring regulatory elements, or by preventing the spread of heterochromatin which can lead to subsequent gene silencing.

This invention discloses the use of gamma satellite DNA, residing in the pericentromeric region of human chromosomes, as highly efficient chromatin insulators. These insulators have a remarkable ability to overcome position effects and prevent the silencing of transgenes. When human chromosome 8 gamma satellite sequences were used as flanking DNA for eGFP (enhanced green fluorescent protein) gene expression in mouse erythroleukemia (MEL) cells, stable transgene expression was recorded for well over eight months. Until recently, no chromatin insulator sequences were known to completely prevent gene silencing on a long term basis in transfected cells. The human gamma-satellite sequences demonstrate a higher efficiency than any known chromatin insulator identified so far in intergenic regions, and may have invaluable applications in the fields of gene therapy, protein expression, and cellular reprogramming where adequate expression of the transgene is essential for long term therapeutic or developmental success.

Applications:

Gene therapy.

Protein expression.

Cellular reprogramming.

Development Status: Prolonged transgene expression attained in mouse erythroleukemia (MEL) cells.

Inventors: Vladimir L. Larionov, Jung-Hyun Kim, Tom Ebersole (NCI).

Publications:

1. G Felsenfeld, B Burgess-Beusse, C Farrell, M Gaszner, R Ghirlando, S Huang, C Jin, M Litt, F Magdinier, V Mutskov, Y Nakatani, H Tagami, A West, T Yusufzai. Chromatin boundaries and chromatin domains. Cold Spring Harb Symp Quant Biol. 2004;69:245–250.

2. T Ebersole, Y Okamoto, VN Noskov, N Kouprina, JH Kim, SH Leem, JC Barrett, H Masumoto, V Larionov. Rapid generation of long synthetic tandem repeats and its application for analysis in human artificial chromosome formation. Nucleic Acids Res. 2005 Sep 1;33(15):e130, doi:10.1093/nar/gni129.

Patent Status:

U.S. Provisional Application No. 60/890,176 filed 15 Feb 2007 (HHS Reference No. E–154–2006/0–US–01).

PCT Application No. PCT/US2008/054170 filed 15 Feb 2008 (HHS Reference No. E–154–2006/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jasbir (Jesse) S. Kindra, J.D., M.S.; 301–435–5170; *kindraj@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute Laboratory of Molecular Pharmacology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize gamma-satellite DNA insulators for stable transgene expression in ectopic chromosomal sites and in Human Artificial Chromosomes (HACs). Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Single Nucleotide Polymorphism Detection by DNA Melting Analysis

Description of Technology: A Single Nucleotide Polymorphism (SNP) is defined as a single base pair difference occurring between members of the same species, or between paired chromosomes in an individual. Some SNPs have been associated with disease traits, and may predispose an individual to a disease or may influence that individual's response to therapeutic agents. There are several high-throughput methods that can detect SNPs of moderate to high abundance, where the polymorphism frequency is greater than ten percent. However, SNPs that alter gene expression or affect the structure of a gene product are often of much lower abundance, with allele frequency of around one percent. Thus, there is a need to devise high-throughput, inexpensive and efficient methods for their detection.

The patent discloses methods for accurately detecting nucleotide sequence variations, such as polymorphisms, deletions, insertions or inversions, by comparison of DNA melting profiles. Methods of detecting single nucleotide sequence variations within arrays are also disclosed, as are methods of detecting mutations correlated with genetic disease.

Applications:

Detection of SNPs and small insertions, deletions, and inversions in a DNA sequence.

Prediction of the etiology or prognosis of certain diseases, or determination of disease traits among individuals.

Advantages:

Useful for detecting rarely-occurring SNPs.

High throughput, simple method that measures DNA melting efficiently, without using intervening steps such as gels, columns etc.

Inventors: Robert H. Lipsky *et al.* (NIAAA)

Patent Status: U.S. Patent No. 7,273,699 issued 25 Sep 2007 (HHS Reference No. E–251–2001/0 US–02).

Licensing Status: Available for exclusive, co-exclusive, or non-exclusive licensing.

Licensing Contact: Jasbir (Jesse) S. Kindra, J.D., M.S.; 301–435–5170; *kindraj@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute on Alcohol Abuse and Alcoholism Section on Molecular Genetics is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize single nucleotide polymorphism detection by melting

analysis. Please contact Dr. Robert Lipsky at 301/402–5591 or *rlipsky@mail.nih.gov* for more information.

Dated: June 26, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–15201 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Public Teleconference Regarding Licensing and Collaborative Research Opportunities for: Methods and Compositions Relating to Detecting Dihydropyrimidine Dehydrogenase (DPD)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

Technology Summary

This technology relates to a method of detecting DPD Splicing Mutations.

Technology Description

Scientists at the National Cancer Institute have discovered a method detecting DPD Splicing Mutations. This method can identify patients with such mutations, and thereby alert the health care provider that the patient will have an adverse reaction to the chemotherapeutic agent, 5–Fluorouracil.

The invention relates to methods and compositions that are useful for detecting deficiencies in DPD levels in mammals including humans. Cancer patients having a DPD deficiency are at risk of a severe toxic reaction to the commonly used anticancer agent 5-fluorouracil (5–FU). The technology encompasses DPD genes from human and pig, methods for detecting the level of nucleic acids that encode DPD in a patient, and nucleic acids that are useful as probes for this purpose.

Novel applications of the methods include:

- Screening of patients prior to the administration of the chemotherapeutic agent, 5–Fluorouracil.
- Diminishing and potentially eliminating the severe side effects of 5–Fluorauracil in patients.

Competitive Advantage of Our Technology

5–Fluorouracil (5–FU) is a therapeutic for the treatment of multiple cancers, including breast and colon cancers. In the United States, approximately 275,000 cancer patients receive 5–FU annually. It is estimated that three percent (3%) of those patients develop some degree of toxic reaction. Patients suffering toxic reactions are difficult and expensive to treat further. Approximately, 15% of those developing toxic reaction, will die as a result of exposure to 5–FU. Death is typically caused by cardiotoxicity. More than 1,300 patients in the United States die each year as a result of 5–FU toxicity. These deaths are all potentially avoidable if patients that are likely to get adverse reaction with 5–FU treatment are detected prior to treatment.

Patent Estate

This technology consists of the following patents and patent applications:

I. United States Patent Number 5,856,454 entitled ''cDNA for Human and Pig Dihydropyrimidine Dehydrogenase,'' issued January 5, 1999 (HHS Ref. No. E–157–1994/0–US–01);

II. United States Patent Number 6,015,673 entitled ''Cloning and Expression of cDNA for Human Dihydropyrimidine Dehydrogenase,'' issued January 18, 2000 (HHS Ref. No. E–157–1994/0–US–03);

III. United States Patent Number 6,787,306 entitled ''Methods and Compositions for Detecting Dihydropyrimidine Dehydrogenase Splicing Mutations,'' issued September 7, 2004 (HHS Ref. No. E–157–1994/1–US–01);

IV. United States Pre-Grant Publication number 2005/0136433A1 corresponding to application serial number 10/911237 entitled ''Methods and Compositions for Detecting Dihydropyrimidine Dehydrogenase Splicing Mutations,'' published June 23, 2005 (HHS Ref. No. E–157–1994/1–US–19) and all issued and pending counterparts in Europe, Canada, and Australia.

Next Step: Teleconference

There will be a teleconference where the principal investigator will explain this technology. Licensing and collaborative research opportunities will also be discussed. If you are interested in participating in this teleconference please call or e-mail Mojdeh Bahar; (301) 435–2950; *baharm@mail.nih.gov.* OTT will then e-mail you the date, time and number for the teleconference.

Dated: June 26, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer. National Institutes of Health.

[FR Doc. E8–15182 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Deferred AA3 Applications.

Date: July 16, 2008.

Time: 1 to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Room 3042, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Katrina L. Foster, PhD, Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 3042, Rockville, MD 20852, 301–443–4032, *katrina@mail.nih.gov.*

The applications being reviewed in EEO2 were initially assigned to panel AA3. The appropriate expertise was not available in AA3; thus, these applications were removed and are being reviewed in a SEP meeting.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: June 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–14924 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Centers of Excellence in Chemical Methodologies and Library Development.

Date: July 22–23, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Sciences, Building 45, Room 3AN18, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: C. Craig Hyde, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3AN18, Bethesda, MD 20892, 301–435–3825, *Ch2v@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 of General Medical Sciences Special Emphasis Panel; Minority Biomedical Research Support in Chemistry.

Date: July 28–29, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: John J. Laffan, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18J, Bethesda, MD 20892, 301–594–2773.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; NIH Pathway to Independence Awards.

Date: July 29–30, 2008.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Hotel, 7335 Wisconsin Avenue, Bethesda, MD 20814.

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: June 26, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–15062 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Kidney Diseases Mentored Career Applications Review.

Date: July 25, 2008.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38oz@nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Type 1 Diabetes Pathfinder Review Meeting.

Date: August 6, 2008.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John F. Connaughton, PhD, Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 26, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–15068 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Lesch Nyhan Disease Interdisciplinary Studies.

Date: July 28, 2008.

Time: 10:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Wellner, PhD, Scientific Review Officer, Review Branch,

DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, AASK Ancillary Studies.

Date: July 29, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Wellner, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Insulin Signaling Interdisciplinary Studies.

Date: July 30, 2008.

Time: 9 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Wellner, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 27, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–15203 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Office of Biotechnology Activity; Recombinant DNA Research; Notice of a Working Group Meeting of the NIH Blue Ribbon Panel

There will be a working group meeting of the NIH Blue Ribbon Panel to advise on the Risk Assessment of the National Emerging Infectious Diseases Laboratories (NEIDL) at Boston University Medical Center.

The meeting will be held on Wednesday, July 16, 2008, at the National Institutes of Health, Building 31, 31 Center Drive, Floor 6C, Room 6, Bethesda, MD 20892 from approximately 8 a.m. to 1 p.m.

Discussions will focus on risk communications and the general principles and strategies for effective community outreach and engagement.

For further information concerning this meeting contact Ms. Laurie Lewallen, Advisory Committee Coordinator, Office of Biotechnology Activities, Office of the Director, National Institutes of Health, Mail Stop Code 7985, Bethesda, MD 20892–7985, telephone 301–496–9838, e-mail *lewallla@od.nih.gov.*

Background information may be obtained by contacting NIH OBA by email *oba@od.nih.gov.*

Dated: June 26, 2008.

Amy P. Patterson,

Director, Office of Biotechnology Activities, National Institutes of Health.

[FR Doc. E8–15064 Filed 7–2–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Sciences Corporation, 345 Hill Ave., Nashville, TN 37210, 615–255–2400 (Formerly: Aegis Analytical Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.
Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239–561–8200/800–735–5416.
Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.
DynaLIFE Dx*, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876 (Formerly: Dynacare Kasper Medical Laboratories).
ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.
Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.
Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.).
Kroll Laboratory Specialists, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).
Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.).
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).
Laboratory Corporation of America Holdings, 13112 Evening Creek Drive, Suite 100, San Diego, CA 92128, 858–668–3710/800–882–7272 (Formerly: Poisonlab, Inc.).
Laboratory Corporation of America Holdings, 550 17th Ave., Suite 300, Seattle, WA 98122, 206–923–7020/800–898–0180 (Formerly: DrugProof, Division of Dynacare/Laboratory of Pathology, LLC; Laboratory of Pathology of Seattle, Inc.; DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).
MAXXAM Analytics Inc.*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700 (Formerly: NOVAMANN (Ontario), Inc.).
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Oregon Medical Laboratories, 123 International Way, Springfield, OR 97477, 541–341–8092.
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.
Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866–370–6699/818–989–2521 (Formerly: SmithKline Beecham Clinical Laboratories).
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.
Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400 (Formerly: St. Lawrence Hospital & Healthcare System).
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.
U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS's NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR

19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Elaine Parry,

Acting Director, Office of Program Services, SAMHSA.

[FR Doc. E8–15108 Filed 7–2–08; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1771–DR]

Illinois; 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 Illinois (FEMA–1771–DR), dated June 24, 2008, and related determinations.

DATES: *Effective Date:* June 24, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 24, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Illinois resulting from severe storms and flooding beginning on June 1, 2008, 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. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Illinois.

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 assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program in the designated areas and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs), unless you determine that the incident is of such unusual severity and magnitude that PDAs are not required to determine the need for supplemental Federal assistance pursuant to 44 CFR 206.33(d).

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. If Other Needs Assistance and Hazard Mitigation are later requested and warranted, Federal funding under these programs will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Elizabeth Turner, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this declared major disaster:

Adams, Calhoun, Clark, Coles, Crawford, Cumberland, Hancock, Henderson, Jasper, Lawrence, Mercer, Pike, and Rock Island Counties for emergency protective measures (Category B), limited to 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 Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–15126 Filed 7–2–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1772–DR]

Minnesota; 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 Minnesota (FEMA–1772–DR), dated June 25, 2008, and related determinations.

DATES: *Effective Date:* June 25, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 25, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Minnesota resulting from severe storms and flooding beginning on June 7, 2008, 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. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program also will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Donald L. Keldsen, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the State of Minnesota have been designated as adversely affected by this declared major disaster:

Fillmore, Freeborn, Houston, and Mower Counties for Public Assistance.

All counties within the State of Minnesota 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 Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–15123 Filed 7–2–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1773–DR]

Missouri; 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 Missouri (FEMA–1773–DR), dated June 25, 2008, and related determinations.

DATES: *Effective Date:* June 25, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 25, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms and flooding beginning on June 1, 2008, 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. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Missouri.

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 assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program in the designated areas and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs), unless you determine that the incident is of such unusual severity and magnitude that PDAs are not required to determine the need for supplemental Federal assistance pursuant to 44 CFR 206.33(d).

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. If Other Needs Assistance and Hazard Mitigation are later warranted, Federal funding under these programs will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael L. Karl, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Andrew, Atchison, Buchanan, Cape Girardeau, Clark, Holt, Jefferson, Lewis, Lincoln, Marion, Mississippi, New Madrid, Nodaway, Pemiscot, Perry, Pike, Platte, Ralls, St. Charles, St. Louis, Ste. Genevieve, and Scott and the Independent City of St. Louis for emergency protective measures (Category B), limited to 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 Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–15124 Filed 7–2–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1771–DR]

Illinois 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 Illinois (FEMA–1771–DR), dated June 24, 2008, and related determinations.

DATES: *Effective Date:* June 25, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Illinois is hereby amended to include Individual Assistance and the Hazard Mitigation Grant Program in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 24, 2008.

Douglas, Edgar, Lake, and Winnebago Counties for Individual Assistance.

Adams, Clark, Coles, Crawford, Cumberland, Hancock, Henderson, Jasper, Lawrence, and Mercer Counties for Individual Assistance (already designated for emergency protective measures [Category B], limited to direct Federal assistance, under the Public Assistance program.)

All counties in the State of Illinois 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 Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–15128 Filed 7–2–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1768–DR]

Wisconsin; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Wisconsin (FEMA–1768–DR), dated June 14, 2008, and related determinations.

DATES: *Effective Date:* June 24, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Wisconsin is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 14, 2008.

Adams, Calumet, Green Lake, Jefferson, La Crosse, and Walworth Counties 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 Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–15127 Filed 7–2–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Lafayette, LA; Eureka, CA; Riverhead, NY; Lindenhurst, NY; and Stockton, CA

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Lafayette, LA; Eureka, CA; Riverhead, NY; Lindenhurst, NY; and Stockton, CA.

DATES: TWIC enrollment begins in Lafayette on July 10, 2008; Eureka on July 16, 2008; Riverhead on July 23, 2008; Lindenhurst on July 30, 2008; and Stockton on August 13, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *www.regulations.gov*;

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov*.

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Public Law 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Port of Lafayette, LA on July 10, 2008; Eureka, CA on July 16, 2008; Riverhead, NY on July 23, 2008; Lindenhurst, NY on July 30, 2008; and Stockton, CA on August 13, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone MSU Morgan City, including those in the Port of Lafayette; Captain of the Port Zone San Francisco Bay, including those in the Ports of Eureka and Stockton; and Captain of the Port Zone Long Island Sound, including those in the Ports of Riverhead and Lindenhurst must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic*.

Issued in Arlington, Virginia, on June 27, 2008.

Stephen Sadler,

General Manager, Operations, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–15129 Filed 7–2–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Line Release Regulations

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day Notice and request for comments; Extension of an existing information collection: 1651–0075.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Line Release Regulations. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (73 FR 22161) on April 24, 2008, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before August 4, 2008.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: CBP encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Line Release Regulations.

OMB Number: 1651–0060.

Form Number: N/A.

Abstract: Line release was developed to release and track high volume and repetitive shipments using bar code technology and PCS. An application is submitted to CBP by the filer and a common commodity classification code (C4) is assigned to the application.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 25,700.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 6,425.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 26, 2008.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E8–15163 Filed 7–2–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2008, the interest rates for overpayments will be 4 percent for corporations and 5 percent for non-corporations, and the interest rate for underpayments will be 5 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

DATES: *Effective Date:* July 1, 2008.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2008–27, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2008, and ending on September 30, 2008. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (2%) plus three percentage points (3%) for a total of five percent (5%). For corporate overpayments, the rate is the Federal short-term rate (2%) plus two percentage points (2%) for a total of four percent (4%). For overpayments made by non-corporations, the rate is the Federal short-term rate (2%) plus three percentage points (3%) for a total of five percent (5%). These interest rates are subject to change for the calendar quarter beginning October 1, 2008, and ending December 31, 2008.

For the convenience of the importing public and Customs and Border

Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate Over-payments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4

Dated: June 30, 2008.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. E8–15173 Filed 7–2–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5186–N–27]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* July 3, 2008.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the*

Homeless v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: June 26, 2008.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E8–14940 Filed 7–2–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[WY–100–2008–1310–NB]

Pinedale Anticline Working Group and Task Groups—Notice of Renewal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Renewal of the Pinedale Anticline Working Group and Task Groups.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior has renewed the Pinedale Anticline Working Group and Task Groups (PAWG). The purpose of the Working Group and Task Groups will be to advise the Bureau of Land Management, Pinedale Field Office Manager, regarding recommendations on matters pertinent to the Bureau of Land Management's responsibilities related to the Pinedale Anticline Environmental Impact Statement and Record of Decision.

FOR FURTHER INFORMATION CONTACT: Ms. Lauren McKeever, Pinedale Anticline Working Group and Task Groups Coordinator, Bureau of Land Management, Pinedale Field Office, 1625 West Pine Street, Pinedale, Wyoming 82941, Phone: (307) 367–5352.

Certification

I hereby certify that the renewal of the Pinedale Anticline Working Group and Task Groups is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources, and facilities administered by the Bureau of Land Management.

Dated: June 25, 2008.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E8–15176 Filed 7–2–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2008–N0117; 40136–1265–0000–S3]

Swanquarter National Wildlife Refuge, Hyde County, NC

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for Swanquarter National Wildlife Refuge for public review and comment. In this Draft CCP/EA, we describe the alternative we propose to use to manage this refuge for the 15 years following approval of the final CCP.

DATES: To ensure consideration, we must receive your written comments by August 4, 2008.

ADDRESSES: Request for copies of the Draft CCP/EA should be addressed to: Bruce Freske, Refuge Manager, Swanquarter National Wildlife Refuge, 38 Mattamuskeet Road, Swan Quarter, NC 27885. The Draft CCP/EA may also be accessed and downloaded from the Service's Internet Site: *http://southeast.fws.gov/planning.* Comments on the Draft CCP/EA may be submitted to the above address or via electronic mail to: *Bruce Freske@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Bruce Freske; Telephone: 252/926–4021; or Fax: 252/926–1743.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Swanquarter National Wildlife Refuge. We started the process through a notice in the **Federal Register** on November 3, 2000 (65 FR 66256).

Swanquarter National Wildlife Refuge, on Pamlico Sound in Hyde County, NC, was established by Presidential Order on June 23, 1932. The Service has acquired all of the property within the refuge's acquisition boundary. The refuge consists of 16,411 acres of saltmarsh islands and forested wetlands interspersed with potholes, creeks, and drains. Marsh vegetation is dominated by black needlerush and sawgrass. The mainland is forested by loblolly pine, pond pine, and bald cypress. Approximately 8,800 acres of the refuge have been designated as wilderness. An additional 27,082 acres of adjacent, non-refuge open water are closed by presidential proclamation to the taking of migratory birds. The purposes of the refuge are: ''for use as an inviolate sanctuary, or for any other management purpose, for migratory birds;'' ''for the development, advancement, management, conservation, and protection of fish and wildlife resources * * * for the benefit of the United States Fish and Wildlife Service, in performing its activities and services;'' and for the supplemental purpose of protecting and providing a wilderness area.

Swanquarter National Wildlife Refuge is in the South Atlantic Coastal Plain Ecosystem and is part of the migration corridor for migratory birds that use the Atlantic Flyway. Wildlife species of management concern on the refuge include the American black duck, lesser scaup, canvasback, redhead, surf scoter, seaside sparrow, shard-tailed sparrow, brown-headed nuthatch, black-throated green warbler, black rail, yellow rail, clapper rail, Forster's tern, peregrine falcon, bald eagle, osprey, black bear, red wolf, Carolina pygmy rattlesnake, and American alligator. The white-tailed deer is also a resident game species.

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year plan 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 our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least

every 15 years in accordance with the Improvement Act and NEPA.

Significant issues addressed in the Draft CCP/EA include: Management of waterfowl and neotropical migratory birds, the wilderness area, and invasive species; recovery and protection of threatened and endangered species (particularly the red-cockaded woodpecker, red wolf, and American alligator); regional habitat loss and fragmentation; turbidity in open waters; land acquisition to include a minor boundary expansion; and public uses of the refuge.

CCP Alternatives, Including Our Proposed Alternative

We developed three alternatives for managing the refuge and chose Alternative B as the proposed alternative.

Alternatives

A full description of each alternative is in the Draft CCP/EA. We summarize each alternative below.

Alternative A: No Action Alternative

Under Alternative A, the no action alternative, present management of the refuge would continue at the current level. The refuge would provide habitat for migratory birds and threatened and endangered species, particularly the red-cockaded woodpecker, the red wolf, and the American alligator. Current surveying and monitoring for waterfowl, wading and colonial nesting birds, and land birds would continue, and no active surveying or monitoring of other birds, mammals, reptiles, amphibians, or fish would be conducted by refuge staff. There would be few public use and environmental education and outreach programs. Fishing and hunting of waterfowl would continue as currently managed.

Alternative B: Moderately Expand Programs (Proposed Alternative)

Under Alternative B, the proposed alternative, the refuge would continue to provide habitat for migratory birds, threatened and endangered species, and other waterfowl and fauna. Surveying and monitoring would be expanded to obtain baseline data on other species, and would include other birds, mammals, reptiles, amphibians, and fish. The refuge would monitor the effects of management activities on flora and fauna and adapt as needed. The public use and environmental education and outreach programs would be increased to include conducting two to ten programs for local school groups. Fishing and hunting opportunities would be expanded by increasing the number of use days and introducing deer hunting with archery equipment. An interpretive trail or boardwalk would be developed to provide greater access to the public.

Alternative C: Optimally Expand Programs

Under Alternative C, the activities under Alternative B would be further expanded. More wildlife and habitat surveying and monitoring would be conducted; environmental education and outreach programs would be increased to include conducting ten to fifteen programs for local school groups; hunting and fishing use days would increase and deer hunting with both archery equipment and primitive firearms would be introduced; an interpretive trail or boardwalk would be developed, as well as a canoe trail; and a photo blind would be constructed. In addition, development and management of moist-soil units for migratory birds would be considered.

Next Step

After the comment period ends, we will analyze the comments and address them in the form of a final CCP and Finding of No Significant Impact.

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.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: May 19, 2008.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E8–15117 Filed 7–2–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2008–N00170; 1112–0000–81420–F2]

Sonoma County Office of Education Habitat Conservation Plan, Dutton Avenue School, City of Santa Rosa, Sonoma County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: proposed low-effect habitat conservation plan; request for comment.

SUMMARY: The Sonoma County Office of Education (SCOE or applicant) has applied to the Fish and Wildlife Service (Service) for a 5-year incidental take permit for two species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of one listed animals and one listed plant. The applicant would implement a conservation program to minimize and mitigate the project activities, as described in the SCOE Low-Effect Habitat Conservation Plan (plan). We request comments on the applicant's application and plan, and the preliminary determination that the plan qualifies as a ''low-effect'' habitat conservation plan, eligible for a Categorical Exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our Environmental Action Statement (EAS), which is also available for public review.

DATES: We must receive written comments on or before August 4, 2008.

ADDRESSES: Please address written comments to Mike Thomas, Conservation Planning Branch, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, CA 95825. Alternatively, you may send comments by facsimile to (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Mike Thomas, or Eric Tattersall, Branch Chief, Conservation Planning Branch, at the address shown above or at 916–414–6600 (telephone).

SUPPLEMENTARY INFORMATION

Availability of Documents

Copies of the permit application, plan, and EAS can be obtained from the individuals named above (see **FOR FURTHER INFORMATION CONTACT**). Copies of these documents are available for public inspection, by appointment, during regular business hours, at the

Sacramento Fish and Wildlife Office (see **ADDRESSES**).

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.

Background Information

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing Federal regulations prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. ''Take'' is defined under the Act to include the following activities: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or to attempt to engage in such conduct. However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Although take of listed plant species is not prohibited under the Act, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. All species included on the incidental take permit would receive assurances under the Services' ''No Surprises'' regulations (50 CFR 17.22(b)(5) and 17.32(b)(5).

The applicant seeks an incident take permit for covered activities within 4.42 acres of grassland and associated wetlands owned by SCOE located in Sonoma County, California. SCOE is requesting permits for take of one federally listed animal species, listed as endangered: Sonoma County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) (*tiger salamander*). The federally listed plant species is the endangered Sebastopol meadowfoam (*Limnathese vinculans*) (meadowfoam). The proposed covered species do not include any wildlife species not currently listed under the Act. Collectively, both of these species are referred to as ''covered species'' in the plan.

SCOE owns and manages lands in Sonoma County, California. Lands owned by SCOE include the proposed community school on 4.42 acres at 3255 and 3261 Dutton Avenue in the City of Santa Rosa.

Covered activities include the following: Grading and ground leveling, vegetation removal and planting, soil compaction, building construction and use of heavy equipment (including, but not limited to bulldozers, cement trucks, water trucks, and backhoes), erosion control structures (such as silt fencing and barriers), dust control (such as watering surface soils), construction of sidewalks and roads, trenching, and installation of utilities and irrigation systems.

The applicant proposes to avoid, minimize, and mitigate the effects to the covered species associated with the covered activities by fully implementing the plan. Minimization measures will include, but are not limited to, an employee education program; biological monitoring during construction and earthmoving; a storm water, erosion, and dust control plan; daily pre-activity surveys for listed species; tiger salamander salvage in the winter prior to construction, to exclude tiger salamanders from the site and work areas; and temporary removal of covered species if they are observed within work areas. General minimization measures will include: limiting staging and work areas to the project site only, regular removal of all foods and food-related trash, prohibiting pets from the project site during construction, a 15 mile-per-hour speed limit for vehicles, maintenance of all equipment to avoid fluid leaks, and storage of all hazardous materials in sealable containers at least 200 feet from aquatic habitats.

Alternatives

The Service's proposed action consists of approving the applicant's plan and issuance of an incidental take permit for the applicant's Covered Activities. As required by the Act, the applicant's plan considers alternatives to the take under the proposed action. The plan considers the environmental consequences of two alternatives to the proposed action, the No Action alternative and the Reduced Take alternative. Under the No Action Alternative, no permit would be issued, the proposed school project would not be built, and no take would occur.

Under the Reduced Take alternative, buildings and facilities would be clustered closer together to reduce the amount of tiger salamander and meadowfoam habitat that would be lost by construction of the school. Direct affects due to habitat loss and take of individuals would be reduced; however, indirect affects to tiger salamander migration corridors are unlikely to be minimized by clustering because existing pathways for migration are limited on all sides except to the north (there are two vacant grassland parcels to the north, which are in turn bordered by development) and any additional construction, regardless of location on the site would likely further restrict movement of tiger salamanders. In addition, grassland and wetland habitat avoided on-site would be unlikely to support a viable population of tiger salamanders or meadowfoam due to the small size of the site, lack of hydrologic connection to other water bodies, and blockage of movement corridors.

Under the proposed action alternative, the Service would issue an incidental take permit for the applicant's proposed project, which includes the activities described above. The proposed action alternative would result in permanent loss of 4.13 acres of upland tiger salamander habitat and 0.07 acres of seasonal wetland habitat. To mitigate for these affects, the applicant proposes to purchase 8.3 tiger salamander credits and 0.105 meadowfoam credits at a Service approved bank.

National Environmental Policy Act

As described in our EAS, we have made the preliminary determination that approval of the proposed plan and issuance of the permit would qualify as a categorical exclusion under NEPA (42 U.S.C. 4321 *et seq.*), as provided by Federal regulations (40 CFR 1500, 5(k), 1507.3(b)(2), 1508.4) and the Department of the Interior Manual (516 DM 2 and 516 DM 8). Our EAS found that the proposed plan qualifies as a ''low-effect'' habitat conservation plan, as defined by the Service's Habitat Conservation Planning Handbook (November 1996). Determination of low-effect habitat conservation plans is based on the following three criteria: (1) Implementation of the proposed plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be

considered significant. Based upon the preliminary determinations in the EAS, we do not intend to prepare further NEPA documentation. We will consider public comments when making the final determination on whether to prepare an additional NEPA document on the proposed action.

Public Review

We provide this notice pursuant to section 10(c) of the Act and the NEPA public-involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We will evaluate the permit application, including the plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to the applicant for the incidental take of the Sonoma Distinct Population Segment of the California tiger salamander and the Sebastopol meadowfoam from the implementation of the covered activities described in the plan, or from mitigation conducted as part of this plan. We will make the final permit decision no sooner than 30 days after the date of this notice.

Dated: June 27, 2008.

Cay C. Goude,

Acting Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. E8–15110 Filed 7–2–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 050–08–1430–FR; HAG–8–0132]

Notice of Intent To Prepare a Resource Management Plan Amendment and Associated Environmental Assessment for the Bureau of Land Management (BLM) Prineville District Deschutes Resource Area, and a Proposed Classification of Lands as Suitable for Disposal

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Intent and Proposed Classification of Lands as Suitable for Disposal under Section 7 of the Taylor Grazing Act (48 Stat. 1272), as amended (43 U.S.C. 315f) and 43 CFR Part 2400.

SUMMARY: This document provides notice that the BLM intends to prepare an amendment to the Upper Deschutes Resource Management Plan for the Prineville District, Deschutes Resource Area and an associated Environmental Assessment (EA). The proposed amendment would reclassify some lands designated for BLM retention and management (Z–1) in the existing Resource Management Plan (RMP) as suitable for disposal (Z–3). The BLM is also providing notice of the proposed classification of these same lands under Section 7 of the Taylor Grazing Act as suitable for disposal. These classifications are required to allow consideration of transfer of these lands to the State of Oregon (''the State'') under the State Indemnity Selection process. When Oregon was admitted into the Union in 1859, the Federal government granted sections 16 and 36 within every township to the State for support of public schools. However, if the Federal government had already disposed of these specific sections or reserved them for some other purpose, the State is allowed to select other public lands ''in-lieu'' of the unavailable sections. To date the State has received approximately 3,000 of the 5,202 acres owed. The State of Oregon Department of State Lands has selected parcels with potential to produce income for the Common School Fund through subsequent development of the lands.

The planning area is located in Deschutes County, Oregon and is described as follows:

T. 17 S., R. 12 E., Deschutes County:
Sec. 1, lots 1–4, S½N½, S½;
Sec. 12, lot 1, NE¼NW¼, NE¼NE¼, W½NE¼.
T. 17 S., R. 13 E., Deschutes County:
Sec. 5, lot 4, W½SW¼NW¼;
Sec. 6, lots 1–7, lots 9–11, S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 7, lots 1, 6, 7, 8, & 10.

These parcels are also commonly referred to as the Deschutes Market Road parcels and total 1577.42 acres of public land. Of these acres, approximately 85 acres are associated with the historic Huntington Road, a mid-19th century military route between The Dalles and Fort Klamath, and included within the larger (982 acres) Wagon Roads Area of Critical Environmental Concern. The public scoping process also serves as the protest period for the proposed classification as required by 32 CFR 2450.4.

DATES: This notice initiates the 30-day public scoping period. Comments on issues and the planning criteria can be submitted in writing to the address listed below and will be accepted throughout the creation of the EA to amend the RMP. All persons who wish to protest the proposed classification must submit comments, objections during this 30-day period and identify prior valid rights or other statutory constraints that would bar reclassification. All public meetings will be announced through the local news media, newsletters, and the BLM Web site *http://www.blm.gov/or/districts/prineville/index.php* at least 15 days prior to the event. A public meeting will be held during the plan amendment scoping period on Wednesday, July 23, 2008 at 7 p.m. at Pilot Butte Elementary School Cafeteria, 1501 NE Neff Road, Bend, Oregon. Early participation is encouraged and will help determine the issues to be addressed by the EA. In addition to the ongoing public participation process, an additional formal opportunity for public participation will be provided through a comment period on a Draft EA.

ADDRESSES: Written comments and classification protests should be sent to the BLM, Prineville District, 3050 N.E. 3rd Street, Prineville, OR 97754; Fax: 541–416–6798; E-mail: *DSLSelection@blm.gov.*

Documents pertinent to this proposal may be examined at the Prineville District Office during regular business hours, 7:45 a.m. through 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Ms. Teal Purrington, BLM Planning Lead, Telephone 541–416–6700; e-mail *DSLSelection@blm.gov.*

SUPPLEMENTARY INFORMATION: On February 6, 2008, the BLM received from the State of Oregon, Department of State Lands, an application (Serial No. OR 61026) to select the above parcels as indemnity for lands lost to the State as provided for by the Oregon Admission Act of February 14, 1859 (11 Stat. 383, Title 43, U.S.C., Sections 851, 852). Upon the filing of the State's application, the land selected was segregated to the extent that it is not open to appropriation under the public land laws including the mining laws. This segregation shall terminate either upon the issuance of the document of conveyance for the land to the State, upon rejection of the application, or two years from the date of filing of the application, whichever comes first. Processing the State's application requires the BLM to consider an amendment to the Upper Deschutes RMP and classification of the lands under Section 7 of the Taylor Grazing Act. It is the BLM's intent to conduct all classification, EA and plan amendment activities and actions concurrently. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns. Preliminary issues

and management concerns have been identified in the existing RMP and by BLM personnel, the State, other agencies, and in meetings with individuals, adjoining landowners and user groups. The preliminary issues that will be addressed in the EA effort include: land tenure and classification; Wagon Roads Area of Critical Environmental Concern; visual resources; recreational values; historic and cultural resources; old growth juniper woodlands; and wildlife populations and habitats.

You may submit comments on issues in writing to the BLM at the public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments within 30 days. 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. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed.

After gathering public comments on what issues the plan amendment should address, the suggested issues will be placed in one of three categories:

1. Issues to be resolved in the plan amendment;
2. Issues resolved through policy or administrative action; or
3. Issues beyond the scope of this RMPA/EA.

Rationale will be provided in the plan amendment for each issue placed in category two or three. An interdisciplinary approach will be used to develop the RMPA/EA in order to consider the variety of resource issues and concerns identified. Disciplines involved in the planning process will include specialists with expertise in rangeland management, minerals and geology, forestry, outdoor recreation, visual resources, archaeology, wildlife, lands and realty, and economics. A similar notice has been published in the local newspaper.

Deborah Henderson-Norton,

Manager, Prineville District.

[FR Doc. E8–15112 Filed 7–2–08; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Flight 93 National Memorial Advisory Commission

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of August 2, 2008 Meeting.

SUMMARY: This notice sets forth the date of the August 2, 2008 meeting of the Flight 93 Advisory Commission.

DATES: The public meeting of the Advisory Commission will be held on Saturday, August 2, 2008 from 10 a.m. to 1 p.m. (Eastern). The Commission will meet jointly with the Flight 93 Memorial Task Force.

Location: The meeting will be held at the Somerset County Courthouse, Court Room #1, located at 111 E. Union Street, Somerset, PA 15501.

Agenda

The August 2, 2008 joint Commission and Task Force meeting will consist of

1. Opening of Meeting and Pledge of Allegiance.
2. Review and Approval of Commission Minutes from May 3, 2008.
3. Reports from the Flight 93 Memorial Task Force and National Park Service. Comments from the public will be received after each report and/or at the end of the meeting.
4. Old Business.
5. New Business.
6. Public Comments.
7. Closing Remarks.

FOR FURTHER INFORMATION CONTACT: Joanne M. Hanley, Superintendent, Flight 93 National Memorial, 109 West Main Street, Somerset, PA 15501, 814.443.4557.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. Address all statements to: Flight 93 Advisory Commission, 109 West Main Street, Somerset, PA 15501.

Dated: May 27, 2008.

Joanne M. Hanley,

Superintendent, Flight 93 National Memorial.

[FR Doc. E8–15114 Filed 7–2–08; 8:45 am]

BILLING CODE 4312–25–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0052]

Civil Division; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: extension of a currently approved information collection; claims under the Radiation Exposure Compensation Act.

The Department of Justice (DOJ), Civil Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 83, page 23272 on April 29. 2008, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 4, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Claims Under the Radiation Exposure Compensation Act.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: N/A. The Civil Division, United States Department of Justice is sponsoring the collection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary*: Individuals or households. Abstract: Information is collected to determine whether an individual is entitled to compensation under the Radiation Exposure Compensation Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 2,000 respondents will complete the form annually within approximately 2.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 5,000 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 30, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–15164 Filed 7–2–08; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0020]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Firearms Transaction Record, Part 1, Over-the-Counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 85, page 24089 on May 1, 2008, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 4, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision.

(2) *Title of the Form/Collection:* Firearms Transaction Record, Part 1, Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4473 (5300.9) Part 1, Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit. *Abstract:* The form is used to determine the eligibility (under the Gun Control Act) of a person to receive a firearm from a Federal firearm licensee and to establish the identity of the buyer. It is also used in law enforcement investigations/inspections to trace firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 10,225,000 respondents, who will complete the form within approximately 25 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 4,260,417 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: June 30, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–15174 Filed 7–2–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: Training for Parole Board Members

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups or

individuals who would like to enter into a cooperative agreement with NIC to develop a 24–36 hour field tested curriculum to train parole board members. The curriculum should include a blended approach to training utilizing instructor-led face-to-face and Web-based instructional delivery strategies.

DATES: Applications must be received by 2 p.m. EDT on Tuesday, July 29, 2008.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534.
Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.
Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, dial 7–3106, extension 0 for pickup.
Faxed applications will not be accepted.
Electronic applications can be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and the required application forms can be downloaded from the NIC Web page at *http://www.nicic.gov.*

All technical or programmatic questions concerning this announcement should be directed to Carla J. Smalls, Correctional Program Specialist, National Institute of Corrections at *cjsmalls@bop.gov* or to George M. Keiser at *gkeiser@bop.gov.*

SUPPLEMENTARY INFORMATION:

Overview: The overall goal of the initiative is to design, develop, field test and revise a training curriculum for parole board members that will:

Describe the role and function of parole within the criminal justice system;

Promote the use of Evidence Based Practices in parole and revocation decision making;

Describe parole's responsibility in the transition/reentry of offenders;

Clarify the collaborative role of parole with other stakeholders within the criminal justice system;

Illustrate the use of management information systems and technology in the processing of parole, early release and revocation cases;

Examine the core competencies that parole board members must possess to be effective.

This curriculum must conform to the principles presented in the Comprehensive Framework for Paroling Authorities in an Era of Evidence-Based Practices. This document can be found at the Web site *http://www.nicic.org/Downloads/PDF/Library/022906.pdf.*

Background: Parole can be defined as both a procedure by which a board administratively releases inmates from prison as well as a provision for post-release supervision. This training focuses on the functions of administrative release and revocation of this release by paroling authorities. For our discussion, parole is defined as the release of an offender from imprisonment to the community by a releasing authority (parole board or paroling authority) prior to the expiration of the offender's sentence, subject to conditions imposed by the releasing authority. Revocation is the action of a releasing authority removing a person from parole status in response to a violation of conditions.

Since eligibility for release on parole is a matter of state law, there is considerable variation in the location, administration and organization of paroling authorities in the United States. All states have parole boards and these boards may be independent agencies that have responsibility for release decisions or a branch of a department of corrections or a community corrections agency. In these organizational structures, boards may also have responsibility for staff that monitor the supervision of parolees in the community.

Regardless of the structure, governors/governments are usually ill-equipped to select, hire and train the caliber of individuals needed to do this important work that has a significant impact on public safety and the economy of a state. Thirteen governors of states or U.S. territories will be up for election this year. Election of a new governor usually results in the appointment of new parole board members and most of these appointments do not have a background in criminal justice or an understanding of the magnitude of the work.

As stated by Burke and Tonry, in the publication ''Successful Transition and Reentry for Safer Communities: A Call to Action for Parole'', in the course of one year, roughly 200 individuals who make up the United States parole boards are responsible for determining the timing of release on parole and determining the conditions of release on parole for 128,708 offenders. During the same year they are responsible for setting conditions of release for an additional 288,679 individuals on mandatory parole and conditional release. They are also responsible for overseeing compliance with conditions and responding to revocations for 643,452 individuals on a given day during the year. Over the course of the year, they also send 227,690 individuals to prison as a result of parole revocations.

Along with handling the sheer volume of the work, without a background in criminal justice, being a parole board member is not considered a career or rarely leads to long term employment. Members rotate on and off the job as governors come in and leave office, resulting in limited consistent overview from the appointing authority and little incentive to examine the vision, mission and goals of the parole board with the intent of organizing the work to produce a more effective agency. Lack of training increases the likelihood that parole board members will rely on ''popular but unproven criminal justice theories'' to guide their decision making. For example, attitudes and opinions that lead to parole board members imposing numerous conditions of parole or revoking technical violators may reflect a get tough on crime mentality. Instead of these attitudes and opinions, paroling authorities must obtain the knowledge, skills, and resources to enable them to perform their work as a bridge between the correctional institution and the community.

Scope of Work: Under this cooperative agreement, the single goal is the development, testing, and revision of a curriculum to train parole board members.

The following represents a description of the products:

Delivery of a curriculum, to be conducted at a centrally located site.

Description: The training program provides participants with information and training about parole and the criminal justice system that are critical to effectively performing the job of a parole board member. The training will build on the principles established in the ''Comprehensive Framework for Paroling Authorities in an Era of Evidence-Based Practices''. The resource provider must consider and use NIC's available curriculum or position statements relative to transition, Evidence-Based Practices, and parole decision making in the development of the training program. Final curriculum must be approved in advance by NIC. The resource provider would be expected to duplicate participant and trainer materials, including three-ring binders, specified index tabs and inserts for each participant, one copy for the training team and a copy for NIC.

Work to be performed: The provider shall:

Consult with the Correctional Program Specialist (CPS) assigned to

manage the cooperative agreement to ensure understanding of, and agreement on, the scope of work to be performed;

Submit a detailed work plan with time lines for accomplishing project activities (See Scope of Work) to CPS for approval prior to any work to be performed under this agreement;

Designate a point of contact, which would serve as the conduit of information and work experience between the CPS and the awardee;

Review pertinent NIC curriculum and/or documents in the development of the curriculum;

Consult with CPS concerning trainers for program delivery. NIC will have final approval of training program faculty. The program must be staffed with at least 3 trainers;

Consult with the CPS and the Research and Evaluation Division on evaluation methodology; and

Make recommendations to CPS for any needed revisions of the curriculum.

Deliverables: The provider shall conduct a needs assessment; Design curriculum consistent with the Instructional Theory Into Practice (ITIP) model; Develop written products to support the training; Structure a reporting process that documents training; Conduct a field test of the curriculum; Provide evaluation data with recommendations for revisions to the curriculum.

Required Expertise: The successful applicant will need the skills, abilities and knowledge in the following areas:

Knowledge of the role of parole and its function within the criminal justice system;

Ability to develop curriculum using the Instructional Theory Into Practice (ITIP) format;

Expertise in a variety of instructional delivery strategies to include but not be limited to instructor-led, synchronous/asynchronous, Web-based, e-learning, etc.;

Skilled in designing training curriculum linked to training objectives;

Knowledge of evidence-based practices and offender transition, and how these areas relate to the parole process;

Knowledge of training evaluation methods; and

Effective written and oral communication skills.

National Institute of Corrections Experience: NIC has provided training assistance to the field of parole for more than 20 years in the form of annual training seminars for parole board members, conducting annual meetings for chairs of paroling authorities, providing ongoing information and staff support to include audio conferences (accessible to anyone with a telephone), developing parole specific documents, funding technical assistance initiatives targeting release decision making and violation/revocation, developing a Resource Kit for New Parole Board Members and training hearing officers. This training has been provided to parole board members and staff in the United States, U.S. territories, the military, federal commission and Canada. Boards from other nations may also participate, if their participation is not at fiscal cost to NIC.

Progress to Date: To guide the development of the training, NIC convened a group of correctional professionals to participate in three, 2-day meetings to develop a document that would articulate a strategy to assist parole board members and paroling authorities in making needed improvements. From these meetings, The ''Comprehensive Framework for Paroling Authorities in an Era of Evidence-Based Practice'' was developed. The ''Framework'' describes the overarching visionary plan that paroling authorities will need for a future of well trained board members, using evidence based practices within agencies that have sufficient staff and other resources to effectively support the release and revocation of offenders. Parole Board member and staff training is a component of this visionary plan.

Application Requirements: Applications should be concisely written, typed double spaced and reference the ''NIC Application Number'' and Title provided in this announcement. The application package must include: OMB Standard Form 424, Application for Federal Assistance; a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period of fiscal year that the applicant operates under (e.g., July 1 through June 30), an outline of projected costs, and the following forms: OMB Standard Form 424A, Budget Information—Non Construction Programs, OMB Standard Form 424B, Assurances—Non Construction Programs (available at *http://www.grants.gov*), and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (available at *http://www.nicic.gov/Downloads/PDF/certif-frm.pdf*.)

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov*. If submitted in hard copy, there needs to be an original and six copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink.

A telephone conference will be conducted for persons receiving this solicitation and having a serious intent to respond on July 18, 2008 at 2 p.m. EDT. In this conference NIC project managers will respond to questions regarding the solicitation and expectation of work to be performed. Please notify Carla Smalls electronically (*cjsmalls@bop.gov*) by 12 noon EDT on July 15, 2008, regarding your interest in participating in the conference. You will be provided with a call-in number and instructions. In addition, NIC project managers will post answers to questions received from potential applicants on its Web site during the time when the solicitation is open to the public.

Authority: Public Law 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. The final budget and award amount will be negotiated between NIC and the successful applicant. Funds may only be used for the activities that are linked to the desired outcome of the project.

This project will be a collaborative venture with the NIC Community Corrections Division.

Eligibility of Applicants: An eligible applicant is any private agency, educational institution, organization, individual or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subjected to a 3 to 5 person NIC Peer Review Process.

Number of Awards: One.

NIC Application Number: 08C78. This number should appear as a reference line in the cover letter, in box 4a of Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601

Executive Order 12372: This project is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. E8–15149 Filed 7–2–08; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before August 4, 2008.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic mail: Standards-Petitions@dol.gov.*
2. *Facsimile:* 1–202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Reynolds, Office of Standards, Regulations, and Variances at 202–693–9449 (Voice), *reynolds.lawrence@dol.gov* (E-mail), or 202–693–9441 (Telefax), or contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2008–031–C.
Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.
Mine: Mine #75, MSHA I.D. No. 15–17478, located in Perry County, Kentucky.
Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).
Modification Request: The petitioner requests a modification of the existing standard to permit check points (examination points) to be established in seven locations of the Parallel Twin Pines Intake Mains due to poor roof conditions that prevent foot travel. The petitioner proposes to establish examination points at certain points to evaluate airflow entering the Parallel Twin Pines Intake Mines and exiting the Parallel Twin Pines Intake Mains. The petitioner also proposes to establish ventilation check points between certain breaks of the Parallel Twin Pines Intake Mains. The petitioner states that due to adverse roof conditions and distance from active works it is impractical to expose personnel to traveling this area. The petitioner further states that no lesser degree of safety is ensured by traveling to both ends of the mains and verifying the adequate air volume and quality at the noted evaluation points and check points. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2008–032–C.
Petitioner: Double Bonus Coal Company, P.O. Box 414, Pineville, West Virginia 24874.
Mine: No. 65 Mine, MSHA I.D. No. 46–09020, located in Wyoming County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).
Modification Request: The petitioner requests a modification of the existing standard to permit blow-off dust covers to be eliminated for nozzles on deluge-type water spray systems. The petitioner proposes to conduct weekly inspections and functional tests of its complete deluge-type water spray system. The petitioner states that in view of the frequent inspections and functional testing of the system, the dust covers are not necessary because the nozzles can be maintained in an unclogged condition through weekly use, and it is burdensome to recap the large number of covers weekly after each inspection and functional test. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Jack Powasnik,
Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. E8–15054 Filed 7–2–08; 8:45 am]
BILLING CODE 4510–43–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TYPE: Quarterly Meeting.

DATES AND TIMES:
July 14, 2008, 8:30 a.m.–4 p.m.;
July 15, 2008, 8:30 a.m.–5 p.m.;
July 16, 2008, 8:30 a.m.–4:15 p.m.

LOCATION: Renaissance Seattle Hotel, 515 Madison Street, Seattle, WA.

STATUS:
July 14, 2008, 8:30 a.m.–4 p.m.—Open;
July 14, 2008, 4 p.m.–5 p.m.—Closed Executive Session;
July 15, 2008, 8:30 a.m.–5 p.m.—Open;
July 16, 2008, 8:30 a.m.–4:15 p.m.—Open.

AGENDA: Public Comment Sessions; Emergency Preparedness Panel; Air Carrier Access Act Panel; Discussions on the Americans with Disabilities Act Amendments Act of 2008, and Employment; Reports from the Chairperson, Council Members, and the Executive Director; Unfinished Business; New Business; Announcements; Adjournment.

SUNSHINE ACT MEETING CONTACT: Mark S. Quigley, Director of External Affairs, NCD, 1331 F Street, NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax)

AGENCY MISSION: NCD is an independent federal agency and is composed of 15 members appointed by the President, by and with the advice and consent of the Senate. NCD provides advice to the President, Congress, and executive branch agencies promoting policies, programs, practices, and procedures that (A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and (B) to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing reasonable accommodations should notify NCD immediately.

LANGUAGE TRANSLATION: In accordance with E.O. 13166, Improving Access to Services for Persons with Limited English Proficiency, those people with disabilities who are limited English proficient and seek translation services for this meeting should notify NCD immediately.

Dated: June 26, 2008.

Michael C. Collins,

Executive Director.

[FR Doc. 08–1407 Filed 6–30–08; 12:45 pm]

BILLING CODE 6820–MA–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting; Agenda

TIME AND DATE: 9:30 a.m., Tuesday, July 8, 2008

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED:

8021 *Highway Accident Report*—Motorcoach Override of Elevated Exit Ramp, Interstate 75, Atlanta, Georgia, March 2, 2007 (HWY–07–MH–015).

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 by Thursday, July 3, 2008.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *http://www.ntsb.gov*.

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: Monday, June 30, 2008.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. E8–15248 Filed 7–2–08; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–33820]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Amendment of Byproduct Materials License No. 13–26640–01, for Unrestricted Release of a Facility in Evansville, IN

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Peter J. Lee, PhD, CHP, Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; telephone: (630) 829–9870; fax number: (630) 515–1259; or by e-mail at *Peter.Lee@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend Byproduct Materials License No. 13–26640–01. The license is held by the Covance Clinical Research Unit, Inc. (the Licensee), now located at 617 Oakley Street, Evansville, Indiana. Issuance of the amendment would authorize release of the Licensee's facility, located at 800 St. Mary's Drive, Evansville, Indiana (the Facility) for unrestricted use. The Licensee requested this action in NRC FORM 313 dated February 1, 2008. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's February 1, 2008 request, resulting in release of the Facility for unrestricted use. License No. 13–26640–01 was issued on August 16, 1995, pursuant to 10 CFR Part 35, and has been amended periodically since that time. The license authorizes the use of by-product materials (carbon-14 and hydrogen-3) in human research studies.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: hydrogen-3 and carbon-14, and that use of these materials at the Facility ceased in early January 2008. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee completed final status surveys at the Facility on January 22, 2008. The final status survey report was attached to the Licensee's amendment request dated February 1, 2008. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 using release criteria for building surfaces based on NUREG–1556, Volume 7, ''Program-Specific Guidance About Academic, Research and Development, and Other Licenses of Limited Scope Including Gas Chromatographs and X-Ray Fluorescence Analyzers—Final Report,'' Appendix Q, ''Radiation Safety Survey Topics.'' These release criteria are the same as the radionuclide-specific dose-based release criteria, described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. These values provide acceptable levels of surface contamination to demonstrate compliance with the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these values and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic

Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities,'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed available docket file records and the survey results to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that issuance of the proposed amendment is in compliance with 10 CFR Part 20. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are, therefore, similar; and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Indiana Emergency Response Program for review on March 24, 2008. By response dated May 12, 2008, the State agreed with the conclusions of the EA, and provided no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. Mary L. Westrick, Covance Clinical Research Unit Inc., NRC Form 313 dated February 1, 2008 (ADAMS Accession No. ML080810513);
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination'';
3. Title 10 Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions'';
4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'';
5. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance.''
6. NUREG–1556, Volume 7, ''Program-Specific Guidance About Academic, Research and Development, and Other Licenses of Limited Scope Including Gas Chromatographs and X-Ray Fluorescence Analyzers—Final Report,'' Appendix Q, ''Radiation Safety Survey Topics.''

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 23rd day of June 2008.

For the Nuclear Regulatory Commission.

Christine A. Lipa,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E8–15118 Filed 7–2–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program: Medically Underserved Areas for 2009

AGENCY: Office of Personnel Management.

ACTION: Notice of Medically Underserved Areas for 2009.

SUMMARY: The Office of Personnel Management (OPM) has completed its annual determination of the States that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for calendar year 2009. This is necessary to comply with a provision of the FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. Accordingly, for calendar year 2009, the following states are Medically Underserved Areas under the FEHB Program: Alabama, Arizona, Idaho, Illinois, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Mexico, North Dakota, South Carolina, South Dakota, and Wyoming. For the 2009 calendar year the State of Illinois is being added.

DATES: *Effective Date:* January 1, 2009.

FOR FURTHER INFORMATION CONTACT: Ingrid Burford, 202–606–0004.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. The FEHB law also requires that a State be designated as a Medically Underserved Area if 25 percent or more of the population lives in an area designated by the Department of Health and Human Services (HHS) as a primary medical care manpower shortage area. Such States are designated as Medically Underserved Areas for purposes of the FEHB Program, and the law requires non-HMO FEHB plans to reimburse beneficiaries, subject to their contract terms, for covered services obtained from any licensed provider in these States.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the States that qualify as Medically Underserved Areas for the next calendar year by comparing the latest HHS State-by-State population counts on primary medical care manpower shortage areas with U.S. Census figures on State resident populations.

U.S. Office Of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. E8–15087 Filed 7–2–08; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice of the Results of the 2007 Annual Product and Country Practices Reviews

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice announces: (1) The disposition of the product petitions accepted for review in the 2007 GSP Annual Product Review; (2) the results of the 2007 *de minimis* Waiver and Redesignation Reviews; (3) the results of the 2007 Competitive Need Limitation (CNL) Waiver Revocation Review; and (4) the results of the 2007 Country Practices Review.

FOR FURTHER INFORMATION CONTACT: Regina Teeter at the GSP Subcommittee, Office of the United States Trade Representative (USTR), Room F–220, 1724 F Street, NW., Washington, DC 20508. The telephone number is (202) 395–6971 and the facsimile number is (202) 395–9481.

The results of the 2007 GSP Annual Review are available for review by appointment in the USTR public reading room, 1724 F Street, NW., Washington, DC. Appointments may be made from 9:30 a.m.. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186. The results of the 2007 GSP Annual Review are also available at: *http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/GSP_2007_Annual_Review/Section_Index.html.*

SUPPLEMENTARY INFORMATION: The GSP program provides for the duty-free importation of designated articles when imported from beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''Trade Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

In the 2007 Annual Product Review, the Trade Policy Staff Committee reviewed petitions to change product coverage of the GSP. The disposition of the petitions considered in the 2007 GSP Annual Review is described in List I (Decisions on Petitions to Add Products to GSP Eligibility in the 2007 GSP Annual Review); List II (Decisions on Petitions to Remove Duty-Free Status from a Beneficiary Developing Country for a Product on the List of Eligible Articles for GSP); and List III (Decisions on CNL Waiver Petitions in the 2007 GSP Annual Review).

Certain articles for which a waiver of the application of section 503(c)(2)(A) of the 1974 Act was issued at least five years ago, but which are revoked pursuant to section 503(d)(5) are listed in List IV (Products for which a Waiver of the Application of section 503(c)(2)(A) of the 1974 Act is Revoked).

In the 2007 Product Review, the GSP Subcommittee evaluated the appraised import values of each GSP-eligible article in 2007 to determine whether an article from a GSP beneficiary developing country exceeded the GSP CNLs. *De minimis* waivers were granted to certain articles that exceeded the 50 percent import share CNL, but for which the aggregate value of the imports of that article was below the 2007 *de minimis* level of $18.5 million. List V (Products Receiving *De Minimis* Waivers) provides the list of the articles and the associated countries granted *de minimis* waivers. No eligible products were redesignated to GSP eligibility.

Articles that exceeded one of the GSP CNLs in 2007, and that are newly excluded from GSP eligibility for a specific country, are listed in List VI (Products Newly Subject to CNL Exclusions).

The disposition of petitions considered in the 2007 Country Practices Review is described in List VII (''Decisions on Country Practice Petitions in the 2007 GSP Annual Review'').

Marideth J. Sandler

Executive Director, Generalized System of Preferences (GSP) Program Chairman, GSP Subcommittee.

[FR Doc. E8–15156 Filed 7–2–08; 8:45 am]

BILLING CODE 3190–W8–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28322]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

June 27, 2008.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of June, 2008. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 22, 2008, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

OFI Tremont Market Neutral Hedge Fund [File No. 811–21109]

Summary: Applicant, a closed-end investment company, seeks an order

declaring that it has ceased to be an investment company. On April 29, 2008, applicant transferred its assets to OFI Tremont Core Strategies Hedge Fund, based on net asset value. Expenses of $18,500 incurred in connection with the reorganization were paid by OppenheimerFunds, Inc., applicant's investment adviser.

Filing Dates: The application was filed on June 5, 2008, and amended on June 23, 2008.

Applicant's Address: 6803 S. Tucson Way, Centennial, CO 80112.

UBS Sequoia Fund, L.L.C. [File No. 811–10075]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 21, 2007, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $5,900 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on June 4, 2008.

Applicant's Address: c/o UBS Financial Services Inc., 51 West 52nd St., New York, NY 10019.

Tremont Oppenheimer Absolute Return Fund [File No. 811–21541]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on June 10, 2008.

Applicant's Address: 6803 S. Tucson Way, Centennial, CO 80112.

Citizens Funds [File No. 811–3626]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 4, 2008, applicant transferred its assets to Sentinel Group Funds, Inc., based on net asset value. Expenses of approximately $958,237 incurred in connection with the reorganization were paid by Citizen Advisers, Inc., applicant's investment adviser, and Sentinel Asset Management, Inc., the acquiring fund's investment adviser.

Filing Dates: The application was filed on May 9, 2008, and amended on June 9, 2008.

Applicant's Address: One Harbour Pl., Suite 400, Portsmouth, NH 03801.

CCMA Select Investment Trust [File No. 811–10441]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on May 13, 2008, and amended on May 29, 2008.

Applicant's Address: c/o CCM Advisors, LLC, 190 South LaSalle St., Suite 2800, Chicago, IL 60603.

Cova Variable Annuity Account Four [File No. 811–6543]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant requests deregistration based on abandonment of registration. Applicant is not now engaged, or intending to engage, in any business activities other than those necessary for winding up its affairs.

Filing Date: The application was filed on May 30, 2008.

Applicant's Address: MetLife Investors Insurance Company, 5 Park Plaza, Suite 1900, Irvine, CA 92614.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15065 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28321; File No. 812–13457]

Minnesota Life Insurance Company, et al.; Notice of Application

June 26, 2008.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940, as amended (the ''1940 Act''), granting exemptions from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder.

APPLICANTS: Minnesota Life Insurance Company (''Minnesota Life''), Variable Annuity Account (''Separate Account''), and Securian Financial Services, Inc. (''SFS'') (collectively, ''Applicants'').

SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 6(c) of the 1940 Act, exempting them from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to the extent necessary to permit recapture of certain bonuses (''Credit Enhancements'') applied to cumulative net purchase payments that reach certain aggregate amounts in accordance with the formula described in the application, made under (i) new deferred variable annuity contracts and certificates, including data pages, riders and endorsements, described in the application (the ''New Contracts'') and under (ii) any deferred variable annuity contracts and certificates, including data pages, riders and endorsements, that Minnesota Life may issue in the future (the ''Future Contracts'') through the Separate Account and any other separate accounts of Minnesota Life and its successors in interest (the ''Future Accounts''), provided that any such Future Contracts are substantially similar in all material respects to the New Contracts (New Contracts and Future Contracts referred to collectively as the ''Contracts''). Applicants also request that the exemptive relief extend to any Financial Industry Regulatory Authority (''FINRA'') member broker-dealers controlling, controlled by, or under common control with any Applicant, whether existing or created in the future, that in the future, may act as principal underwriter for the Contracts (''Future Underwriters''). Applicants would recapture Credit Enhancements previously applied to purchase payments under the New Contracts in the following circumstances: (1) In the event a contract owner exercises his or her right to cancellation/''free look'' under the New Contract; (2) if the Credit Enhancements were added to the contract within 12 months prior to the date of death of the contract owner (unless the New Contract is continued under the surviving spouse continuation option); and (3) if the Credit Enhancements were added to the contract within 12 months prior to the date of annuitization or partial annuitization of the contract. The requested relief would also apply to any Future Contract funded by the Separate Account or Future Accounts, provided that such Future Contract is substantially similar in all material respects to the New Contract.

FILING DATE: The application was filed on November 21, 2007, and amended on June 24, 2008.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30

p.m. on July 21, 2008, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, c/o Michael P. Boyle, Senior Counsel, Minnesota Life Insurance Company, 400 Robert Street North, St. Paul, Minnesota 55101.

FOR FURTHER INFORMATION CONTACT: Ellen J. Sazzman, Senior Counsel, at (202) 551–6762, or Harry Eisenstein, Branch Chief, at (202) 551–6795, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 ((202) 551–8090).

Applicants' Representations

1. Minnesota Life is a Minnesota stock life insurance company organized under the laws of Minnesota. All of the shares of the voting stock of Minnesota Life are owned by a second tier intermediate stock holding company named ''Securian Financial Group, Inc.,'' which in turn is a wholly-owned indirect subsidiary of Minnesota Mutual Companies, Inc.

2. Minnesota Life is authorized to sell insurance and annuities in all states (except New York), and the District of Columbia. For purposes of the 1940 Act, Minnesota Life is the depositor and sponsor for the Separate Account. Minnesota Life also serves as depositor for several other separate accounts. Minnesota Life may establish one or more additional Future Accounts for which it will serve as depositor.

3. The Separate Account is a segregated investment account under Minnesota law. Under Minnesota law, the assets of the Separate Account attributable to the Contracts and any other variable annuity contracts through which interests in the Separate Account are issued are owned by Minnesota Life, but are held separately from all other assets of Minnesota Life, for the benefit of the owners of, and the persons entitled to payment under, Contracts issued through the Separate Account. Consequently, such assets are not chargeable with liabilities arising out of any other business that Minnesota Life may conduct. Income, gains and losses, realized or unrealized, from each sub-account of the Separate Account, are credited to or charged against that sub-account without regard to any other income, gains or losses of Minnesota Life. The Separate Account is a ''separate account'' as defined by Section 2(a)(37) of the 1940 Act, is registered with the Commission as a unit investment trust (File No. 811–4294), and interests in the Separate Account offered through the Contracts are registered under the Securities Act of 1933 on Form N–4, File No. 333–111067.

4. The Separate Account is divided into a number of sub-accounts. Each sub-account invests exclusively in shares representing an interest in a separate corresponding investment portfolio of one of several series-type, open-end management investment companies. The assets of the Separate Account support one or more varieties of variable annuity contracts, including the New Contract. Minnesota Life may issue Future Contracts through the Separate Account. Minnesota Life also may issue Contracts through Future Accounts.

5. SFS is a wholly-owned subsidiary of Securian Financial Group, Inc. SFS serves as the principal underwriter of Minnesota Life separate accounts registered as unit investment trusts under the 1940 Act, including the Separate Account, and is the distributor of variable life insurance policies and variable annuity contracts issued through such separate accounts, including the Contracts. SFS is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of FINRA. SFS may act as principal underwriter for Future Accounts of Minnesota Life and as distributor for Future Contracts.

6. The New Contracts are deferred combination variable and fixed annuity contracts that Minnesota Life may issue to individuals on a ''non-qualified'' basis or in connection with certain types of retirement plans that receive favorable federal income tax treatment under the Internal Revenue Code of 1986, as amended (the ''Code''). The New Contracts make available a number of sub-accounts of the Separate Account to which a contract owner may allocate net purchase payments and associated Credit Enhancement(s).

7. The New Contracts also offer fixed-interest allocation options under which Minnesota Life credits guaranteed rates of interest for various periods. These include several guaranteed term account options and the Minnesota Life general account. A market value adjustment may apply to the fixed-interest allocation options under the New Contracts in certain circumstances.

8. A contract owner's initial purchase payment must be at least $10,000 (unless a lower qualified plan limitation applies). Thereafter, a contract owner may choose the amount and frequency of purchase payments, except that the minimum subsequent purchase payment is $500 ($100 for automatic payment plans). A contract owner may make transfers of contract value among and between the sub-accounts and, subject to certain restrictions, among and between the sub-accounts and the fixed-interest allocation options at any time. Contract value is the sum of a contract owner's values in the general account, guarantee periods of the guaranteed term account and sub-accounts of the Separate Account on any valuation date before the annuity commencement date.

9. The New Contracts offer a contract owner a variety of annuity payment options. The contract owner may annuitize any time. A contract owner may choose to annuitize his/her entire contract or only a portion of the contract value. If a deferred sales charge (''DSC'') would otherwise apply to New Contract withdrawals at the time of annuitization, the DSC will be waived for amounts applied to provide annuity payments. In the event of a contract owner's (or the annuitant's, if any contract owner is not an individual) death prior to annuitization, the beneficiary may elect to receive the death benefit in the form of one of several annuity payment options instead of a lump sum.

10. The New Contracts have a DSC which is applicable on surrender and withdrawal of accumulation values as described more fully below. Credit Enhancements are not recaptured upon surrender or withdrawal.

11. If a contract owner withdraws contract value, Minnesota Life may deduct a DSC equal to a percentage of each purchase payment surrendered or withdrawn. The DSC is separately calculated and applied to each purchase payment at any time that the purchase payment (or part of the purchase payment) is surrendered or withdrawn. The amount of the DSC depends on how long a contract owner's purchase payment has been held under the New Contract. The DSC applicable to each purchase payment diminishes to zero over time as the purchase payment remains in the New Contract. The DSC does not apply in any circumstances under which Credit Enhancements will be recaptured.

12. The New Contracts offer a standard DSC schedule as follows:

Contract Years Since Payment	0–1	1–2	2–3	3–4	4–5	5–6	6–7	7–8	8+
Deferred Sales Charge (percent)	8.0	8.0	7.0	6.0	6.0	5.0	4.0	3.0	0

The DSC does not apply to:

- The annual free withdrawal amount (as discussed below).
- Amounts withdrawn to pay the annual maintenance fee, any transfer charge or any periodic charges for optional riders.
- Any amount attributable to recaptured Credit Enhancements.
- Amounts payable as a death benefit upon the death of the contract owner or the annuitant, if applicable.
- Amounts applied to provide annuity payments under an annuity option.
- Amounts withdrawn because of an excess contribution to a tax-qualified contract (including, for example, IRAs and tax sheltered annuities).
- The difference between any required minimum distribution due (according to Internal Revenue Service rules) on the New Contract and any annual free withdrawal amount allowed.
- A surrender or withdrawal requested any time after the first contract anniversary and if a contract owner meets the requirements of a qualifying confinement in a hospital or medical care facility.
- A surrender or withdrawal requested any time after the first contract anniversary and in the event that a contract owner is diagnosed with a terminal illness as described in the New Contract.
- A surrender or single withdrawal amount any time after the first contract anniversary if the unemployment waiver applies.
- If a certain optional living benefit is elected, withdrawals in a contract year if less than or equal to the limit specified for the benefit.

13. A contract year is defined as a period of one year beginning with the contract issue date and continuing up to, but not including, the next contract anniversary, or beginning with a contract anniversary and continuing up to, but not including, the next contract anniversary.

14. The amount withdrawn plus any DSC is deducted from the contract value. The amount of the DSC is determined from the percentages shown in the table above. For purposes of determining the amount of DSC, withdrawal amounts will be allocated to contract gain up to the free withdrawal amount, and then to purchase payments on a first-in, first-out, basis. The amount of the DSC is determined by: (a) Calculating the number of years each purchase payment being withdrawn has been in the New Contract; (b) multiplying each purchase payment being withdrawn by the appropriate DSC percentage from the table; and (c) adding the DSC from all purchase payments calculated in (b). Unless otherwise instructed, the DSC will be deducted pro rata from all sub-accounts. The New Contract permits a contract owner to withdraw from his or her contract certain ''free amounts'' on an annual basis without imposition of the DSC. The annual free withdrawal amount shall be equal to 10% of purchase payments not previously withdrawn and received by Minnesota Life during the current contract year, plus the greater of: (i) Contract value less purchase payments not previously withdrawn as of the most recent contract anniversary; or (ii) 10% of the sum of purchase payments not previously withdrawn and still subject to the DSC, as of the most recent contract anniversary. The free withdrawal amount does not apply when a New Contract is surrendered.

15. Subject to state availability, a contract owner may elect to purchase optional living benefit riders. A contract owner may only elect a single living benefit on a New Contract. These include a minimum guaranteed income benefit rider, a guaranteed minimum withdrawal benefit rider, and two guaranteed living withdrawal benefit riders.

16. If a contract owner dies before the annuity start date, the New Contract provides for a death benefit payable to a beneficiary computed as of the date Minnesota Life receives written notice and due proof of death. The death benefit payable to the beneficiary depends on the death benefit option selected by the contract owner: The guaranteed minimum death benefit which is included as part of the base New Contract; or one of four optional death benefits.

17. Minnesota Life will credit the contract value allocated to the sub-accounts and the fixed-interest accounts with a Credit Enhancement when total cumulative net purchase payments reach certain aggregate levels. The term ''cumulative net purchase payments'' is equal to the total of all purchase payments applied to the contract less any amounts previously withdrawn from contract value. The amount of the Credit Enhancement to be added will be calculated as follows: (a) Cumulative net purchase payments; multiplied by (b) the applicable Credit Enhancement percentage from the table below; minus (c) any Credit Enhancements previously applied to contract value.

Cumulative net purchase payments	Credit enhancement percentage
$250,000–$499,999.99 ...	0.25
$500,000–$749,999.99 ...	0.50
$750,000–$999,999.99 ...	0.75
$1,000,000 or more	1.00

18. For example, an original purchase payment equal to $251,000 is made to the Contract; Minnesota Life applies a Credit Enhancement equal to 0.25% of purchase payments ($627.50) to the Contract. Subsequently, the contract owner requests a withdrawal from contract value of $35,000 including applicable deferred sales charge. Cumulative net purchase payments are now equal to $251,000 − $35,000 = $216,000. An additional purchase payment of $300,000 is later added to the Contract, making cumulative net purchase payments equal to $216,000 + $300,000 = $516,000. Applying the formula: $516,000 × 0.5% = $2,580 less $627.50 results in a Credit Enhancement added equal to $1,952.50.

19. The Credit Enhancement amount is treated as earnings for purposes of federal taxes under the Contract. Minnesota Life will allocate the Credit Enhancement for the applicable purchase payment among the sub-accounts and fixed-interest accounts the contract owner selects in accordance with a contract owner's current purchase payment allocation instructions. Minnesota Life applies the Credit Enhancement to a contract owner's contract value either by ''purchasing'' accumulation units of an appropriate sub-account or adding to the contract owner's fixed-interest allocation option values. Minnesota Life reserves the right to increase or decrease the amount of the Credit Enhancement or discontinue the Credit Enhancement in the future. In such case Minnesota

Life would seek any additional exemptive relief to the extent required.

20. Minnesota Life intends to recapture or retain the Credit Enhancements only in the following circumstances. First, Minnesota Life recaptures or retains 100% of the Credit Enhancements in the event that the contract owner exercises his or her cancellation right during the ''free look'' period. Second, Minnesota Life recaptures all of the Credit Enhancements added to the Contract within 12 months prior to the date of death of the contract owner (unless the Contract is continued under the surviving spouse benefit continuation option); any Credit Enhancement added to the Contract more than 12 months prior to the date of death would not be recaptured. Third, Minnesota Life will recapture all of the Credit Enhancements added to the Contract within 12 months prior to the annuitization date of the Contract. Any Credit Enhancement added to the Contract more than 12 months prior to the date of annuitization would not be recaptured. If only a partial annuitization were elected, a pro rata portion of the Credit Enhancements added to the Contract within 12 months of the annuitization date would be recaptured. So for example, if half the contract value were annuitized, half of the Credit Enhancements added within 12 months of the date of the annuitization would be recaptured.

21. Investment gains attributable to the Credit Enhancement will not be recaptured. Since Minnesota Life does not recapture the investment gain/loss attributable to the Credit Enhancement, only the dollar amount of the Credit Enhancement added to the Contract is recaptured in the circumstances described in the application.

22. With regard to variable contract value, several consequences flow from the foregoing. First, increases in the value of accumulation units representing Credit Enhancements accrue to the contract owner immediately. The initial value of such units belongs to the contract owner except in the limited circumstances of recapture. Second, decreases in the value of accumulation units representing Credit Enhancements do not diminish the dollar amount of contract value subject to recapture. Therefore, additional accumulation units must become subject to recapture as their value decreases. Stated differently, the proportionate share of any contract owner's variable contract value (or the contract owner's interest in the Separate Account) that Minnesota Life needs to ''recapture'' to avoid anti-selection increases as variable contract value (or the contract owner's interest in the Separate Account) decreases. This has the potential to dilute somewhat the contract owner's interest in his/her Contract as compared to other contract owners who do not trigger the recapture provisions.

23. Finally, because it is not administratively feasible to track the Credit Enhancements in the Separate Account which may still be subject to recapture, Minnesota Life deducts the daily mortality and expense risk charge and the daily administrative charge from the entire net asset value of the Separate Account. As a result, the daily mortality and expense risk charge, and any optional benefit charges paid by any contract owner may be greater than that which he or she would pay without the Credit Enhancement. In other words, any asset based fees taken on a dollar amount that is subsequently recaptured cannot be refunded to contract owners.

24. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant the exemptions set forth below from Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to permit Applicants to recapture Credit Enhancements previously applied to purchase payments under the New Contracts: (1) In the event a contract owner exercises his or her right to cancellation/''free look'' under the New Contract; (2) if the Credit Enhancements were added to the Contract within 12 months prior to the date of death of the contract owner (unless the New Contract is continued under the surviving spouse continuation option); and (3) if the Credit Enhancements were added to the Contract within 12 months prior to the date of annuitization or partial annuitization of the Contract. The requested relief would also apply to any Future Contract funded by the Separate Account or Future Accounts provided such Future Contract is substantially similar in all material respects to the New Contract.

25. The relief sought in this Application is intended to permit Minnesota Life with respect to the New Contract to: (i) Deduct any Credit Enhancements from amounts returned after a contract owner exercises his or her right to cancel the contract during the free-look period; (ii) deduct from any death benefit the amount of any Credit Enhancements applied during the 12 months prior to the date of the contract owner's death; and (iii) deduct from any annuitization benefit the amount of any Credit Enhancements applied during the 12 months prior to the date of annuitization or partial annuitization.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Subsection (i) of Section 27 provides that Section 27 does not apply to any registered separate account supporting variable annuity contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of subsection (i). Paragraph (2) provides that it shall be unlawful for a registered separate account or sponsoring insurance company to sell a variable annuity contract supported by the separate account unless the ''* * * contract is a redeemable security; and * * * [t]he insurance company complies with Section 26(e) * * *''.

3. Section 2(a)(32) defines a ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

4. Rule 22c–1 imposes requirements with respect to both the amount payable on redemption of a redeemable security and the time as of which such amount is calculated. In pertinent part, Rule 22c–1 prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security from selling, redeeming or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

5. Applicants submit that to the extent that the recapture of the Credit Enhancement arguably could be seen as a discount from the net asset value, or arguably could be viewed as resulting in the payment to a contract owner of less than the proportional share of the issuer's net assets, in violation of

Section 2(a)(32) or 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder, the Credit Enhancement recapture would then trigger the need for relief absent some exemption from the 1940 Act. Rule 6c–8 provides, in relevant part, that a registered separate account, and any depositor of such account, shall be exempt from Sections 2(a)(32), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act and Rule 22c–1 thereunder to the extent necessary to permit them to impose a deferred sales load on any variable annuity contract participating in such account. Applicants assert, however, that the Credit Enhancement recapture is not a sales load but a recapture of a Credit Enhancement previously applied to a contract owner's purchase payments. Minnesota Life provides the Credit Enhancement from its general account on a guaranteed basis. The Contracts are designed to be long-term investment vehicles. In undertaking this financial obligation, Minnesota Life contemplates that a contract owner will retain a Contract over an extended period, consistent with the long-term nature of the Contracts. Minnesota Life contends that it designed the Contract so that it would recover its costs (including the Credit Enhancements) over an anticipated duration while a Contract is in force. If a contract owner withdraws his or her money during the free look period, the contract owner dies shortly after Credit Enhancements are applied, or the Contract is annuitized before this anticipated period, Minnesota Life asserts it must recapture the Credit Enhancement subject to recapture in order to avoid a loss.

6. Applicants submit that the proposed recapture of the Credit Enhancement would not violate Section 2(a)(32) or 27(i)(2)(A) of the 1940 Act or Rule 22c–1 thereunder. Minnesota Life would grant Credit Enhancements out of its general account assets. Applicants submit that a contract owner's interest in the Credit Enhancements does not vest until the expiration of the free look period and the expiration of the 12-month period following the application of a Credit Enhancement to the contract owner's Contract; until such time, Minnesota Life generally retains the right to and interest in each contract owner's contract value representing the dollar amount of any unvested Credit Enhancement amounts. Therefore, Applicants submit if Minnesota Life recaptures any Credit Enhancements or part of a Credit Enhancement in the circumstances described above, it would merely be retrieving its own assets. Applicants further submit that to the extent that Minnesota Life may grant and recapture Credit Enhancements in connection with variable contract value, it would not, at either time, deprive any contract owner of his or her then proportionate share of the Separate Account's assets.

7. Applicants further submit that the operation of the proposed Credit Enhancements would not violate Section 2(a)(32) or 27(i)(2)(A) of the 1940 Act because the recapture of Credit Enhancements would not, at any time, deprive a contract owner of his or her proportionate share of the current net assets of the Separate Account. Section 2(a)(32) defines a redeemable security as one ''under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net asset value.'' Applicants assert that taken together, these two sections of the 1940 Act do not require that the holder receive the exact proportionate share that his or her security represented at a prior time. Therefore, Applicants submit that the fact that the proposed Credit Enhancement provisions have a dynamic element that may cause the relative ownership positions of Minnesota Life and a contract owner to shift due to Separate Account performance would not cause the provisions to conflict with Sections 2(a)(32) or 27(i)(2)(A). Nonetheless, in order to avoid any uncertainty as to full compliance with the 1940 Act, Applicants seek exemptions from these two sections.

8. Minnesota Life's granting of Credit Enhancements would have the result of increasing a contract owner's contract value in a way that arguably could be viewed as the purchase of an interest in the Separate Account at a price below the current net asset value. Similarly, Minnesota Life's recapture of any Credit Enhancements arguably could be viewed as the redemption of such an interest at a price above the current net asset value. If such is the case, then the Credit Enhancements arguably could viewed as conflicting with Rule 22c–1. Applicants contend that these are not correct interpretations or applications of these statutory and regulatory provisions. Applicants also contend that the Credit Enhancements do not violate Rule 22c–1.

9. Rule 22c–1 was intended to eliminate or reduce, as far as was reasonably practicable: (1) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption at a price above net asset value; or (2) other unfair results, including speculative trading practices. Applicants submit that the industry and regulatory concerns prompting the adoption of Rule 22c–1 were primarily the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing permitted certain investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the values of outstanding shares.

10. Applicants submit that the Credit Enhancements do not give rise to either of the two concerns that Rule 22c–1 was designed to address. First, Applicants contend that the proposed Credit Enhancements pose no such threat of dilution. A contract owner's interest in his or her contract value or in the Separate Account would always be offered at a price based on the net asset value next calculated after receipt of the order. The granting of a Credit Enhancement does not reflect a reduction of that price. Instead, Minnesota Life would purchase with its general account assets, on behalf of the contract owner, an interest in the Separate Account equal to the Credit Enhancement. Because the Credit Enhancement will be paid out of the general account assets, not the Separate Account assets, Applicants submit that no dilution will occur as a result of the Credit Enhancement. Recaptures of Credit Enhancements result in a redemption of Minnesota Life's interest in a contract owner's contract value or in the Separate Account at a price determined based on the Separate Account's current net asset value and not at an inflated price. Moreover, the amount recaptured will never exceed the amount that Minnesota Life paid from its general account for the Credit Enhancement. Similarly, although a contract owner is entitled to retain any investment gains attributable to the Credit Enhancement, the amount of such gains would always be computed at a price determined based on net asset value.

11. Second, Applicants submit that speculative trading practices calculated to take advantage of backward pricing will not occur as a result of Minnesota Life's recapture of the Credit Enhancement. Variable annuities are designed for long-term investment, and by their nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c–1 was designed to prevent. More importantly, the Credit Enhancement recapture simply does not

create the opportunity for speculative trading.

12. Applicants assert that the Credit Enhancement is generally beneficial to a contract owner. The recapture tempers this benefit somewhat, but unless the owner (1) exercises his or her right to cancel the contract during the ''free look'' period, or (2) Minnesota Life applies Credit Enhancements and a death benefit during the same 12-month period, or (3) Minnesota Life applies Credit Enhancements and a contract owner annuitizes during the same 12-month period, the contract owner retains the ability to avoid the Credit Enhancement recapture in the circumstances described in the application. While there would be a small downside in a declining market where the contract owner bears the downside risk of incurring losses attributable to the Credit Enhancements applied, it is the converse of the benefits a contract owner would receive on the Credit Enhancement amounts in a rising market because earnings on the Credit Enhancement amount vest with him or her immediately. Applicants submit that as any earnings on Credit Enhancements applied would not be subject to recapture and thus would be immediately available to a contract owner, over time this would increase the contract owner's share of contract value in the Separate Account more than it would have increased without the Credit Enhancements. Likewise any losses on Credit Enhancements would also not be subject to recapture and over time would decrease the contract owner's share of contract value in the Separate Account by more than it would have decreased had the Credit Enhancements never been applied. Applicants submit that the Credit Enhancement recapture does not diminish the overall value of the Credit Enhancement.

13. Applicants assert that the Credit Enhancement recapture provision is necessary for Minnesota Life to offer the Credit Enhancement and prevent anti-selection—the risk that a contract owner would make significant purchase payments into the Contract solely to receive a quick profit from the Credit Enhancements and then withdraw his or her money. Applicants submit it would be unfair to Minnesota Life to permit a contract owner to keep his or her Credit Enhancement upon his or her exercise of the Contract's ''free look'' provision. Because no DSC applies to the exercise of the ''free look'' provision, individuals could purchase the contract with no intention of keeping it, and the contract owner could obtain a quick profit in the amount of the Credit Enhancement at Minnesota Life's expense by exercising that right in just a short period of time. Applicants submit it would also be unfair to Minnesota Life to permit a contract owner to keep his or her Credit Enhancements paid shortly before death or annuitization. Rather than spreading purchase payments over a number of years, a contract owner could knowingly make very large payments shortly before death or annuitization to obtain a quick profit in the amount of the Credit Enhancement thereby leaving Minnesota Life less time to recover the cost of the Credit Enhancement, to its financial detriment. Applicants further submit because no additional DSC applies upon death of a contract owner (or annuitant), a death shortly after the award of Credit Enhancements would afford a contract owner or a beneficiary a similar profit at Minnesota Life's expense. Finally Applicants submit that because no additional DSC applies upon annuitization, if a contract owner annuitizes his or her contract shortly after the award of the Credit Enhancement, such event would afford a contract owner a similar profit at Minnesota Life's expense.

14. Applicants submit that in the event of such profits to a contract owner or beneficiary, Minnesota Life could not recover the cost of granting the Credit Enhancements. This is because Minnesota Life intends to recoup the costs of providing the Credit Enhancement through the charges under the Contract, particularly the daily mortality and expense risk charge and through efficiencies associated with administering contracts with higher aggregate purchase payments. Applicants assert that if the profits described above are permitted, a contract owner could take advantage of them, reducing the base from which the daily charges are deducted and greatly increasing the amount, and cost, of Credit Enhancements that Minnesota Life must provide. Therefore, the recapture provisions are a price of offering the Credit Enhancements. Applicants submit that Minnesota Life simply cannot offer the proposed Credit Enhancements without the ability to recapture those Credit Enhancements in the limited circumstances described in the application.

15. Applicants state that the Commission's authority under Section 6(c) of the 1940 Act to grant exemptions from various provisions of the 1940 Act and rules thereunder is broad enough to permit orders of exemption that cover classes of unidentified persons. Applicants request an order of the Commission that would exempt them, Minnesota Life's successors in interest, Future Accounts and Future Underwriters from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder with respect to the Contracts. Applicants submit that the exemption of these classes of persons is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act because all of the potential members of the class could obtain the foregoing exemptions for themselves on the same basis as the Applicants, but only at a cost to each of them that is not justified by any public policy purpose. As discussed in the application, the requested exemptions would only extend to persons that in all material respects are the same as the Applicants. Applicants note that the Commission has previously granted exemptions to classes of similarly situated persons in various contexts and in a wide variety of circumstances, including class exemptions for recapturing bonus-type credits under variable annuity contracts.

16. Applicants represent that any Future Contracts will be substantially similar in all material respects to the New Contracts, but particularly with respect to the Credit Enhancements and recapture of Credit Enhancements and that each factual statement and representation about the Credit Enhancement feature will be equally true of any Future Contracts. Applicants also represent that each material representation made by them about the Separate Account and SFS will be equally true of Future Accounts and Future Underwriters, to the extent that such representations relate to the issues discussed in the Application. In particular, each Future Underwriter will be registered as a broker-dealer under the Securities Exchange Act of 1934 and be a member of FINRA.

17. Based upon the foregoing, Applicants submit that the recapture of the proposed Credit Enhancement involves none of the abuses to which provisions of the 1940 Act and rules thereunder are directed. The contract owner will always retain the investment experience attributable to the Credit Enhancement and will retain the principal amount in all cases except under the circumstances described herein. Further, Applicants assert that Minnesota Life should be able to recapture such Credit Enhancement to limit potential losses associated with such Credit Enhancements.

Conclusions

Applicants submit that the exemptions requested are necessary or

appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and consistent with and supported by Commission precedent. Applicants also submit that the provisions for recapture of Credit Enhancements under the Contracts do not violate Section 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58043; File No. SR–ODD–2008–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Accelerated Delivery of Supplement to the Options Disclosure Document Reflecting Changes to Disclosure Regarding Certain Binary Stock and Index Options, Range Options and Delayed Start Options

June 26, 2008.

On June 9, 2008, The Options Clearing Corporation (''OCC'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 (''Act''),[1] five preliminary copies of a supplement to its options disclosure document (''ODD'') reflecting changes to disclosure regarding certain binary options on stock and broad-based indexes, range options and delayed start options (''DSOs'').[2] On June 26, 2008, 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. Recently, the Chicago Board Options Exchange, Incorporated (''CBOE'') amended its rules to permit the listing and trading of certain binary index options.[4] The CBOE also recently amended its rules to permit the listing and trading of range options.[5] The proposed supplement amends the ODD to accommodate these changes by providing disclosure regarding certain binary stock and index options, range options and DSOs.[6]

Specifically, the proposed supplement to the ODD adds new disclosure regarding the characteristics of binary index options on broad-based indexes as well as the special risks of these binary index options. The proposed supplement to the ODD also adds new disclosure regarding the characteristics and special risks of range options. Finally, the proposed supplement makes disclosures regarding the characteristics and special risks of binary stock options and DSOs.[7] 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]

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 finds, having due regard to the adequacy of information disclosed and the public interest and protection of investors, that the proposed supplement 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 to the ODD (SR–ODD–2008–02), reflecting changes to disclosure regarding certain binary stock and index options, range options and DSOs 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,

Acting Secretary.

[FR Doc. E8–15102 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[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 June 9, 2008.

[3] *See* letter from Jean M. Cawley, Senior Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division, Commission, dated June 25, 2008.

[4] *See* Securities Exchange Act Release No. 57850 (May 22, 2008), 73 FR 31169 (May 30, 2008) (SR–CBOE–2006–105). CBOE Rule 22.3(a) permits it to trade binary options on any broad-based index that has been selected in accordance with CBOE Rule 24.2.

[5] *See* Securities Exchange Act Release No. 57376 (February 25, 2008), 73 FR 11689 (March 4, 2008) (SR–CBOE–2007–104). CBOE Rule 20.3(a) permits it to trade range options on any index that is eligible for options trading on CBOE.

[6] The proposed June supplement supersedes and replaces the April 2008 supplement to the ODD to accommodate the approval of trading of certain binary index options and range options. *See* notes 4 and 5, *supra*. The April 2008 supplement contained disclosure on binary options on individual equity securities, including exchange-traded funds, and DSOs, which were previously approved for trading by the Commission. *See* Securities Exchange Act Release No. 56251 (August 14, 2007), 72 FR 46523 (August 20, 2007) (SR–Amex–2004–27) (order approving the listing and trading of binary options on individual stocks and exchange-traded funds, also known as fixed return options) and Securities Exchange Act Release No. 56855 (November 28, 2007), 72 FR 68610 (December 5, 2007) (CBOE–2006–90) (order approving the listing and trading of DSOs).

[7] The Commission notes that the disclosure regarding binary stock options and DSOs in the proposed June supplement is substantially similar to that provided in the April 2008 supplement.

[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 binary index options, range options and/or DSOs are made. Any future changes to the rules of the options markets concerning binary index options, range options and/or DSOs would need to be submitted to the 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).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58051; File No. SR–CBOE–2008–54]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Related to Sponsored Users

June 27, 2008.

On May 12, 2008, Chicago Board Options Exchange, Incorporated (''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 6.20A to permit Sponsored User

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

access to all products traded on CBOE. The proposed rule change was published for comment in the **Federal Register** on May 27, 2008.[3] The Commission received no comments regarding the proposal.

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, Section 6(b)(5) of the Act,[5] which requires that an exchange have rules designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The proposal will expand the scope of Sponsored User access, which has previously been approved by the Commission,[6] beyond CBOE's FLEX Hybrid Trading System (''FLEX'') and the CBOE Stock Exchange facility (''CBSX'') to all other products that are traded on CBOE. Sponsored Users who access other products trading on CBOE will be subject to the same requirements as Sponsored Users on FLEX and CBSX.[7] In addition, although the number of Sponsored Users who may access products other than FLEX and CBSX will be limited to fifteen, CBOE will admit applicants in a non-discriminatory manner using a first-in, first-out method. In this regard, CBOE's actions will be subject to review under Chapter XIX of its rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CBOE–2008–54) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15104 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[3] *See* Securities Exchange Act Release No. 57836 (May 19, 2008), 73 FR 30430.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] *See* Securities Exchange Act Release No. 56792 (November 15, 2007), 72 FR 65776 (November 23, 2007) (SR–CBOE–2006–99) (approving proposed rule change to permit sponsored user access to FLEX). *See also* Securities Exchange Act Release No. 57646 (April 10, 2008), 73 FR 20726 (April 16, 2008) (SR–CBOE–2008–37) (notice of filing and immediate effectiveness of proposed rule change to permit sponsored user access to CBSX).

[7] *See* CBOE Rule 6.20A.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58038; File No. SR–ISE–2008–50]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exposure of Public Customer Orders to all ISE Members

June 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2008, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the ISE. The ISE has designated the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend ISE Rule 803 relating to the exposure of public customer orders. The text of the proposed rule change is available on ISE's Web site at *http://www.ise.com,* at ISE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

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 ISE Rule 803 relating to the exposure of public customer orders. Pursuant to Commission approval, before a Primary Market Maker (''PMM'') sends a public customer order through the intermarket linkage (''Linkage'') when ISE is not at the national best bid or offer (''NBBO''), the Exchange exposes these customer orders to all its market makers to give them an opportunity to match the NBBO.[5]

Specifically, before the PMM sends a Linkage Order on behalf of a public customer, the public customer order is exposed at the NBBO price for a period established by the Exchange not to exceed one second. During this exposure period, Exchange market makers may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. If at the end of the exposure period, the order is executable at the then-current NBBO and the ISE is not at the then-current NBBO, the order is executed against responses that equal or better the then-current NBBO.[6] The exposure period will be terminated if the exposed order becomes executable on the ISE at the prevailing NBBO or if the Exchange receives an unrelated order that could trade against the exposed order at the prevailing NBBO price.[7] If, after an order is exposed, the order is not executed in full on the Exchange at the then-current NBBO or better, and it is marketable against the then-current NBBO, the PMM sends a Linkage Order on the customer's behalf for the balance of the order as provided in Rule 803(c)(2)(ii) even though there may be other ISE members who would be willing to execute the order at the better price. If the balance of the order is not marketable against the then-

[5] *See* Securities Exchange Act Release No. 57812 (May 12, 2008), 73 FR 28846 (May 19, 2008) (Notice of Filing of Amendment No. 1 to the Proposed Rule Change and Order Granting Accelerated Approval of Proposed Rule Change, As Modified by Amendment No. 1 Thereto, Relating to the Exposure of Public Customer Orders).

[6] Executions will be allocated pro-rata based on size (*i.e.*, the percentage of the total number of contracts available at the same price that is represented by the size of a market maker's response).

[7] The order is executed against orders and quotes on the book and responses received during the exposure period in price priority. At the same price, customer orders are executed first in time priority and then all other interest (orders, quotes and responses) are allocated pro-rata based on size.

current NBBO, it is placed on the ISE book.

The Exchange notes that when an order is sent to another exchange through Linkage, the other exchange charges an execution fee. The cost of sending the order through Linkage can be substantial, particularly with respect to other options exchanges that have adopted a maker-taker fee schedule.[8] To retain as much order flow as possible on ISE and to help reduce costs associated with the number of orders sent through Linkage, ISE proposes to expose public customer orders to Electronic Access Members in addition to all other market makers, thus permitting all members of the Exchange to respond to these public customer orders before the orders are sent to another exchange through Linkage. This proposal will provide additional opportunities for public customer orders to be executed at the NBBO at ISE, and, as noted above, will reduce PMM costs by reducing the number of Linkage orders they must send to other exchanges.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's [10] requirements that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the proposed rule change will give additional opportunities for public customer orders to be executed at the NBBO at ISE and reduce costs by reducing the number of Linkage orders sent to other exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12] As required under Rule 19b–4(f)(6)(iii),[13] the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[16] which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that a waiver of the 30-day operative delay will allow the Exchange to implement this proposed rule change immediately and, thus, permit all ISE members to respond to public customer orders that have been exposed.[17] Further, the Commission notes that another exchange has similar rules that would expose in-bound orders that are executable against the NBBO on that exchange's book for one second.[18] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for 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–ISE–2008–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–50. 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

[8] Several options exchanges have adopted a fee structure in which firms receive a rebate for the execution of orders resting in the limit order book, *i.e.*, posting liquidity, and pay a fee for the execution of orders that trade against liquidity resting on the limit order book, *i.e.*, taking liquidity. Taker fees currently range up to $0.45 per contract and are charged without consideration of the order origin category, including public customer orders. The effective price paid by a customer purchasing an option can be considerably higher on an exchange that charges a taker fee. Because orders cannot be executed at prices inferior to the NBBO, ISE members are effectively forced to pay taker fees when an exchange with a taker fee structure is at the NBBO and the members' orders are directly routed to such an exchange or indirectly routed to such an exchange through Linkage (where the fees are passed through).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *Id.*

[17] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[18] *See* Chapter V, Section 16(b) of the Rules of the Boston Options Exchange.

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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–ISE–2008–50 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15069 Filed 7–2–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58041; File No. SR–ISE–2007–94]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change as Modified by Amendments No. 1 and 3 Thereto Relating to Reduction of the Order Handling and Exposure Periods

June 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 5, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by ISE. On December 4, 2007, ISE filed Amendment No. 1 to the proposed rule change. On May 22, 2008, ISE filed Amendment No. 2 to the proposed rule change.[3] On June 23, 2008, ISE filed Amendment No. 3 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to reduce the order handling and exposure periods contained in Exchange Rules 716 (Block Trades), 717 (Limitations on Orders), 723 (Price Improvement Mechanism for Crossing Transactions), and 811 (Directed Orders) from three seconds to one second.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.iseoptions.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISE 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. ISE 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 the proposed rule change is to reduce the order handling and exposure periods contained in Exchange Rules 716 (Block Trades), 717 (Limitations on Orders), 723 (Price Improvement Mechanism for Crossing Transactions), and 811 (Directed Orders) from three seconds to one second.

Rule 716 contains the requirements applicable to the execution of orders using the Block Order Mechanism, Facilitation Mechanism, and Solicited Order Mechanism. The Block Order Mechanism allows members to obtain liquidity for the execution of a block-size order, whereas the Facilitation and Solicited Order Mechanisms allow members to enter block-size cross transactions. Rule 723 contains the requirements applicable to the execution of orders using the Price Improvement Mechanism (''PIM''). The PIM allows members to enter cross transactions of any size. Orders entered into any of these mechanisms (''Mechanisms'') currently are exposed to all market participants for three seconds, giving participants an opportunity to enter additional trading interest before the orders are automatically executed. Under the proposal, the exposure period for all four Mechanisms would be reduced to one second.

Rule 717 requires members to expose agency orders to the marketplace before executing them as principal[4] or executing them against orders solicited from other members.[5] Under Rule 717, an order can be exposed either by entering it onto the Exchange and waiting at least three seconds before entering the contra-side proprietary or solicited order, or by utilizing the various mechanisms that have an exposure period built into the functionality as described above. Under the proposal, the exposure period for orders entered onto the Exchange would be reduced to one second.[6]

Rule 811 contains the requirements applicable to the handling and execution of Directed Orders. A Directed Order is an order routed from an Electronic Access Member to an Exchange Market Maker (the ''Directed Market Maker'') through the Exchange's system.[7] A Directed Market Maker is required to enter Directed Orders into the PIM or release the order to the Exchange's limit order book within three seconds of receipt.[8] Under the proposal, this time period would be reduced to one second.

Additionally, there are three instances when a Directed Order is exposed to all market participants for three seconds after being released to the Exchange's limit order book: (i) Before a Directed Order is matched against the Directed Market Maker at the NBBO;[9] (ii) before

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[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 was withdrawn on May 29, 2008.

[4] Rule 717(d).

[5] Rule 717(e). The Exchange proposes to make a non-substantive clean-up of Rule 717(e) to specify that members can use the Facilitation Mechanism to execute solicited crosses. The Facilitation Mechanism rule was amended earlier this year to allow members to enter solicited crosses, and Rule 717(e) should have been updated at that time. *See* Securities Exchange Act Release No. 55557 (March 29, 2007), 72 FR 16838 (April 5, 2007).

[6] Under Rule 717(d), a member may enter an agency order that would execute against a pre-existing proprietary order on the Exchange if such proprietary order was entered at least three seconds prior to receipt of the agency order. Under the proposal, this time period would also be reduced to one second.

[7] Rule 811(a)(1).

[8] Rule 811(c)(3). If the Directed Market Maker fails to do so within three seconds, the Exchange's system automatically releases the order. Rule 811(c)(3)(ii).

[9] If a Directed Market Maker is quoting at the NBBO at the time it releases a Directed Order, the

Continued

executing a Directed Order against the Directed Market Maker's Guarantee;[10] and (iii) before being given to the Primary Market Maker for handling where the Directed Market Maker is also the Primary Market Maker.[11] Under the proposal, these three exposure periods would be reduced to one second.

Finally, if a Directed Order is placed on the Exchange's limit order book, the Directed Market Maker is not permitted to enter a proprietary order to execute against the Directed Order during the three seconds following the release of the Directed Order. This limitation would be reduced to one second under the proposal.

In adopting the various three-second order handling and exposure periods, ISE recognized that three seconds would not be long enough to allow human interaction with the orders. Rather, market participants had become sufficiently automated that they could react to these orders electronically. In this context, ISE recognizes that it is in all market participants' best interest to minimize the exposure period to a time frame that continues to allow adequate time for market participants to electronically respond, as both the order being exposed and the participants responding to the order are subject to market risk during the exposure period. In this respect, ISE's experience with the three-second time period indicates one second would provide an adequate response time. Indeed, most members wait until the end of the last second of the three-second period before responding to exposed orders. Accordingly, the Exchange does not believe it is necessary or beneficial to the orders being exposed to continue to subject them to market risk for a full three seconds.

Recently, the Exchange distributed a survey to members that regularly participate in orders executed through the Mechanisms that would be affected by the proposal. To substantiate that its members could receive, process, and communicate a response back to the Exchange within one second, the survey asked members to identify how many milliseconds it took for (i) a broadcast from ISE to reach their systems; (ii) their systems to generate responses; and (iii) their responses to reach the ISE. The survey results indicate that the time it takes a message to travel between the Exchange and its members typically is not more than fifty milliseconds each way.[12] The survey also indicated that it takes not more than ten milliseconds for member systems to process the information and generate a response. Thus, the survey indicated that it typically takes, at most, 110 milliseconds for members to receive, process, and respond to broadcast messages related to the various Mechanisms. Additionally, members indicated that reducing the exposure period to one second would not impair their ability to participate in orders executed through the Mechanisms.[13] The Exchange believes that this information provides additional support for its assertion that reducing the exposure periods from three seconds to one second will continue to provide members with sufficient time to ensure effective interaction with orders.

When approving the existing three-second order handling and exposure periods, the Commission concluded that three seconds was sufficient to afford electronic crowds sufficient time to compete for orders.[14] In reaching this conclusion, the Commission stated that the critical issue is determining whether the three-second timeframe would give participants in a fully automated marketplace sufficient time to respond, compete and provide price improvement for orders, and whether electronic systems were available to ISE members that would allow them to respond in a meaningful way within the proposed timeframe.[15] The Commission noted that the ISE is a fully electronic exchange where participants interact by electronic means, and that electronic systems were readily available, if not already in place, that would allow ISE members to respond.[16]

The Exchange believes reducing order handling and exposure periods as discussed above from three seconds to one second would benefit all market participants. Since members react to these orders electronically, and generally only at the tail end of the three-second period, reducing the time periods would continue to provide sufficient time to ensure effective interaction with orders. At the same time, reducing the time periods to one second would allow the Exchange to provide investors and other market participants with more timely executions, thereby reducing market risk.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act[17] that an exchange have rules that are 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 for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, ISE believes that the proposal will benefit market participants by providing more timely executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on

Directed Market Maker is last in priority, and the order is exposed to all market participants before the Directed Order is executed against the Directed Market Maker's quote.

[10] If the Directed Market Maker is quoting at the NBBO on the opposite side of the market from a Directed Order at the time the Directed Order is received by the Directed Market Maker, and the Directed Order is marketable, the Exchange's system will automatically guarantee execution of the Directed Order against the Directed Market Maker at the price and the size of the Directed Market Maker's quote. Rule 811(d).

[11] As provided in Rule 714, when the Exchange's best bid or offer is inferior to another exchange, incoming marketable customer orders are handled by the Primary Market Maker pursuant to Rule 803(c), which requires the Primary Market Maker to either execute the order at a price that matches the NBBO or attempt to obtain the better price for the customer according to the Linkage rules contained in Chapter 19.

[12] Eleven firms responded to the survey. Eight of the eleven responded to the specific timing questions. Half of these members communicate to the Exchange from Chicago. The others are located in New York City, or operate from both New York City and Chicago.

[13] All of the eight members that responded to the specific timing questions, and two of the three members that did not answer the specific timing questions, indicated that reducing the crossing exposure timer to one second would not impair their ability to participate in ISE crossing orders. One member responded that it could not measure the specific times and indicated that it would prefer to keep the exposure periods at three seconds.

[14] *See* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (order approving PIM with three-second order handling and exposure periods); Securities Exchange Act Release No. 52711 (November 1, 2005), 70 FR 67508 (November 7, 2005) (reduction of exposure period for Facilitation and Solicited Order Mechanisms from ten seconds to three seconds); Securities Exchange Act Release No. 53850 (May 23, 2006), 71 FR 30703 (May 30, 2006) (reduction of exposure period for orders entered on the Exchange under Rule 717(d) and (e) from thirty seconds to three seconds); Securities Exchange Act Release No. 54531 (September 28, 2006), 71 FR 58649 (October 4, 2006) (reduction of exposure period for Block Order Mechanism from thirty seconds to three seconds).

[15] *See* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 at 75096 (December 15, 2004) (order approving PIM with three-second order handling and exposure periods).

[16] *Id.*

[17] 15 U.S.C. 78f(b)(5).

this proposed rule change. The Exchange has not received any written comments from members or other interested parties, except as described below.

In Amendment No. 3, ISE noted that the Commission received a comment letter on another ISE rule proposal related to the price at which a transaction may be effected through the PIM (the ''Price Proposal''), which asserted that the combined effect of the Price Proposal and this proposal to reduce the exposure period to one second would be increased internalization rates.[18] ISE further noted that the Commission subsequently approved the Price Proposal, stating that it did not agree with the concerns raised by the commenter and that the PIM would continue to provide an opportunity for customer orders to receive an execution at a price better than the NBBO.[19] The Commission stated in its approval order that the Price Proposal could increase the likelihood of members entering agency orders into the PIM because the members would only be required to guarantee an execution at the NBBO, which would provide additional customer orders an opportunity for price improvement. ISE also noted that the Commission mentioned in its approval order the potential for the Price Proposal to encourage increased participation in a PIM and that increased participation would decrease the proportion of an agency order that would be internalized by the submitting member.

As the Exchange discusses in the Purpose section of this filing, and as further supported by the results of the survey discussed above, ISE members are able to respond to PIM orders in less than one second, and therefore the Exchange does not believe this proposal will discourage competition for PIM orders. Rather, ISE believes that this rule change, like the Price Proposal, could provide additional customer orders an opportunity for price improvement because it would reduce the market risk for members that are required to guarantee an execution at the NBBO or better.

[18] Letter from Lisa J. Fall, General Counsel, Boston Options Exchange, to Nancy M. Morris, Secretary, Commission, dated May 14, 2008 (commenting on File Number SR–ISE–2008–29).

[19] See Securities Exchange Act Release No. 57847 (May 21, 2008), 73 FR 30987 (May 29, 2008) (order approving File No. SR–ISE–2008–29).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2007–94 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–94. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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–ISE–2007–94 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15101 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58033; File No. SR–NYSE–2008–49]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend for Three Months the Moratorium Related to the Qualification and Registration of Registered Competitive Market Makers, Pursuant to NYSE Rule 107A, and Competitive Traders, Pursuant to NYSE Rule 110

June 26, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2008, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for three months the moratorium related to the qualification and registration of Registered Competitive Market Makers (''RCMMs''), pursuant to Exchange Rule 107A, and Competitive Traders (''CTs''), pursuant to Exchange Rule 110 (''Moratorium''). The text of the proposed rule change is available at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

http://www.nyse.com, the NYSE, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend for three months the current Moratorium related to the qualification and registration of RCMMs, pursuant to Exchange Rule 107A, and CTs, pursuant to Exchange Rule 110.

On September 22, 2005, the Exchange filed SR–NYSE–2005–63 [3] with the Commission proposing to implement a Moratorium on the qualification and registration of new RCMMs and CTs. The purpose of the Moratorium was to allow the Exchange an opportunity to review the viability of RCMMs and CTs in the NYSE HYBRID MARKET℠ (''Hybrid Market'').[4]

During each phase of the Hybrid Market, new system functionality was included in the operation of Exchange systems, and new data was generated. As a result, the Exchange was unable to make an informed decision as to the viability of RCMMs and CTs in the Hybrid Market. The phased-in implementation of the Hybrid Market required the Exchange to extend the Moratorium an additional six times over the next twenty-four months.[5]

The Exchange is now proposing to extend the Moratorium, as amended,[6] for an additional three months to September 30, 2008 in order to finalize its determination as to the roles of RCMMs and CTs and to formally submit a proposal to the Commission outlining the role, if any, these classes of traders have in the Exchange's evolving market.

On June 12, 2008, the Exchange filed its proposal to create its new market model (''New Model'').[7] Pursuant to its proposal, the Exchange intends to: (i) Provide market participants with additional abilities to post hidden liquidity on Exchange systems; (ii) create a Designated Market Maker (''DMM'') and phase out the NYSE specialist; and (iii) enhance the speed of execution through technological enhancements and a reduction in message traffic between Exchange systems and its DMMs.

In light of these proposed changes, the Exchange seeks to continue its review of the data related to RCMMs' and CTs' current trading on the NYSE. Accordingly, the Exchange requests additional time to decide what roles, if any, RCMMs and CTs should perform in the proposed New Model.

The Exchange will issue an Information Memo announcing the extension of the Moratorium.

2. Statutory Basis

The basis under the Act [8] for this proposed rule change is the requirement under section 6(b)(5) [9] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange is currently reviewing the data related to RCMMs and CTs to evaluate its trading volume in the current, more electronic market. Since it is undergoing significant developments in its technology and its market model, the Exchange believes that an extension of time to finalize its determination of what, if any, roles the RCMMs and CTs will play in this evolving marketplace could potentially remove impediments to, and better improve, the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [12] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NYSE has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Moratorium to continue without interruption so that the Exchange may have additional time to make a final determination as to the future roles of RCMMs and CTs in the proposed New Model and to file with the Commission a proposed rule change outlining such roles. For these reasons, the Commission designates that the

[3] *See* Securities Exchange Act Release No. 52648 (October 21, 2005), 70 FR 62155 (October 28, 2005) (SR–NYSE–2005–63).

[4] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR–NYSE–2004–05) (establishing the Hybrid Market).

[5] *See* Securities Exchange Act Release Nos. 54140 (July 13, 2006), 71 FR 41491 (July 21, 2006) (SR–NYSE–2006–48); 54985 (December 21, 2006), 72 FR 171 (January 3, 2007) (SR–NYSE–2006–113); 55992 (June 29, 2007), 72 FR 37289 (July 9, 2007) (SR–NYSE–2007–57); 56556 (September 27, 2007), 72 FR 56421 (October 3, 2007) (SR–NYSE–2007–86); 57072 (December 31, 2007), 73 FR 1252 (January 7, 2008) (SR–NYSE–2007–125); and 57601 (April 2, 2008), 73 FR 19123 (April 8, 2008) (SR–NYSE–2008–22).

[6] *See* Securities Exchange Act Release No. 53549 (March 24, 2006), 71 FR 16388 (March 31, 2006) (SR–NYSE–2006–11) (making certain amendments to the Moratorium).

[7] *See* SR–NYSE–2008–46.

[8] 15 U.S.C. 78a.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

proposed rule change become operative immediately.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2008–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–49. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–49 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15066 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58036; File No. SR–NYSE–2008–51]

Self-Regulatory Organizations; New York Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Rule 103A (Specialist Stock Reallocation and Member Education and Performance) and Exchange Rule 103B (Specialist Stock Allocation)

June 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2008, the New York Stock Exchange, LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as ''non-controversial'' under Section 19(b)(3)(A)(iii)[3] of the Act and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend to September 30, 2008, the moratorium on the administration of the Specialist Performance Evaluation Questionnaire (''SPEQ'') pursuant to Exchange Rule 103A and the use of the SPEQ pursuant to Exchange Rule 103B (''Moratorium''), which was implemented on June 8, 2007. In addition, the Exchange proposes to continue to suspend the use of SuperDot turnaround for orders received and the use of responses to administrative messages as objective measures in the assessment of specialist performance during the Moratorium. The Exchange further proposes that the SPEQ and Order Reports/Administrative Responses continue to be removed from the criteria used to commence a specialist performance improvement action during the Moratorium.

The text of the proposed rule changes is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend to September 30, 2008, the Moratorium on the administration of the SPEQ pursuant to Exchange Rule 103A and the use of the SPEQ pursuant to Exchange Rule 103B, which was implemented on June 8, 2007 and extended through June 31, 2008.[5]

In addition, the Exchange proposes that the use of SuperDot turnaround for orders received and responses to administrative messages continue to be removed from the objective measures used in the assessment of specialist performance pursuant to Exchange Rule 103B or as criteria used to commence specialist performance improvement action pursuant to Exchange Rule 103A during the Moratorium.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release Nos. 55852 (June 4, 2007), 72 FR 31868 (June 8, 2007) (NYSE–2007–47) (''Original Request''); 57184 (January 22, 2008), 73 FR 5254 (January 29, 2008) (NYSE–2008–02); and 57591 (April 1, 2008), 73 FR 18838 (April 7, 2008) (NYSE–2008–21).

SPEQ

Prior to June 2007, pursuant to Exchange Rule 103A, on a quarterly basis, the Exchange distributed a twenty-question survey known as the SPEQ to eligible Floor brokers [6] to evaluate specialist performance during the quarter immediately prior to the distribution of the SPEQ. Initially, this subjective feedback provided critical information to assist the Exchange in maintaining the quality of the NYSE market.

However, the Exchange believed that the SPEQ no longer adequately allowed a Floor broker to assess the electronic interaction between the specialist and the Floor broker. The Hybrid Market provided Floor brokers and specialists with electronic trading tools that have resulted in less personal and verbal contact between Floor brokers and specialists. Currently, the majority of transactions executed on the Exchange are done through electronic executions.

In addition, the dramatic increase in transparency with respect to the Display Book through, among other things, Exchange initiatives like NYSE OPENBOOK™ [7] (''OPENBOOK'') has decreased the need for the Floor broker to obtain market information verbally from the specialist. This increased transparency gives all market participants, both on and off the Floor, a greater ability to see and react to market changes.

The questions on the SPEQ did not take into account the operation of the electronic tools available in the Hybrid Market. The SPEQ did not provide Floor brokers with a means to evaluate specialist performance under the current market model. As a result of the more electronic interaction between Floor brokers and specialists, Floor brokers were unable to assess specialist performance using the SPEQ.

The questions posed to the Floor brokers on the SPEQ required Floor brokers to opine on the specialists' ability to offer single price executions and specialists' ability to provide notification to Floor brokers of market changes in particular stocks. In the current more electronic market, specialists are unable to offer single price executions and the relative speed of executions makes it virtually impossible for specialists to notify brokers of changes in a particular security.

Given the above, the SPEQ no longer served as a meaningful measure of specialist performance.

Objective Measures

The Exchange further requests that during the extension of the Moratorium, allocations of newly listed securities on the Exchange continue to be based on the objective measures identified in Exchange Rule 103B,[8] with the exception of SuperDot turnaround for orders received and response to administrative messages.

As explained in the Original Request and previously requested extensions, SuperDot turnaround for orders received and response to administrative messages no longer provides meaningful objective standards to evaluate specialist performance in the Hybrid Market. Specifically, in the more electronic Hybrid Market, orders received by Exchange systems that are marketable upon entry are eligible to be immediately and automatically executed by Exchange systems. As such, SuperDot turnaround no longer provided a meaningful objective measure of a specialist's performance.

Furthermore, in the current more electronic market, the Exchange systems automatically respond to the majority of the administrative messages. Today, there are two administrative messages that require a manual response from specialists. These are messages that require the specialist to provide status information on market orders and stop orders. With regard to requests for the status of stop orders, the specialists are no longer capable of providing this information. In December 2006, following Commission approval,[9] the Exchange changed its stop order handling process. Stop orders are no longer visible to the part of the NYSE Display Book® that the specialist ''sees.'' When a transaction on the Exchange results in the election of a stop order that had been received prior to such transaction, the elected stop order is sent as a market order [10] to the Display Book and the specialist's system employing algorithms, where it is handled in the same way as any other market order. The specialist, therefore, is unable to provide any information regarding the status of stop orders.

Market orders are eligible to receive immediate and automatic execution on the Exchange. The immediate and automatic execution of market orders eliminates the need for the specialists to respond to the administrative request for the status of market orders. In practice, a customer that submits a market order will likely receive a report of execution before the administrative message requesting the status of the market order has been printed and read by the specialist.

This change has had a minimal impact on Exchange customers. In the past few years, the average number of administrative messages received on a daily basis has steadily declined. The Exchange believes that immediate and automatic execution of orders will virtually eliminate administrative messages that require a manual response from a specialist. As a result, a specialist's ability to respond to administrative messages no longer provides a meaningful measure of specialists' performance during the Moratorium.

Given the above, the Exchange seeks to continue suspension of the use of both measures as criteria used to assess specialists' performance during the extension of the Moratorium.

Performance Improvement Actions

Similarly, during the extension of the Moratorium, the Exchange seeks to continue suspending the use of the SPEQ and Order Reports/Administrative Reports as criteria for the implementation of a performance improvement action pursuant to Exchange Rule 103A. Exchange Rule 103A(b) provides that:

The Market Performance Committee shall initiate a Performance Improvement Action

[6] The Exchange believed that conscientious participation in the SPEQ process was a critical element in the Exchange's program for evaluating the overall performance of its specialists. All eligible Floor brokers were required to participate in the process and evaluate from one to three specialist units each quarter. Floor brokers were selected to participate in the SPEQ process based on broker badge data submitted in accordance with audit trail requirements. Brokers who intentionally failed or refused to participate in the SPEQ process were potentially subject to disciplinary action, including the imposition of a summary fine pursuant to Exchange Rule 476A.

[7] OPENBOOK Online Database is an Exchange online service that allows subscribers to view the contents of the specialist book for any stock at any given point in the day, or over a period of time. Results are returned in an Excel spreadsheet. OPENBOOK Online Database is a historical database with data stored online for a 12-month period.

[8] Pursuant to Exchange Rule 103B, specialist dealer performance is measured in terms of participation (TTV); stabilization; capital utilization, which is the degree to which the specialist unit uses its own capital in relation to the total dollar value of trading in the unit's stocks; and near neighbor analysis, which is a measure of specialist performance and market quality comparing performance in a stock to performance of stocks that have similar market characteristics. Additional objective measures pursuant to Exchange Rule 103B are those measures included in Exchange Rule 103A which are: (a) Timeliness of regular openings; (b) promptness in seeking Floor official approval of a non-regulatory delayed opening; (c) timeliness of DOT turnaround; and (d) response to administrative messages.

[9] *See* Securities Exchange Act Release No. 54820 (November 27, 2006), 71 FR 70824 (December 6, 2006) (SR–NYSE–2006–65).

[10] As used herein, the term ''market order'' refers to market orders that are not designated as ''auction market orders.''

(except in highly unusual or extenuating circumstances, involving factors beyond the control of a particular specialist unit, as determined by formal vote of the Committee) in any case where a specialist unit's performance falls below such standards as are specified in the Supplementary Material to this rule. The objective of a Performance Improvement Action shall be to improve a specialist unit's performance where the unit has exhibited one or more significant weaknesses, or has exhibited an overall pattern of weak performance that indicates the need for general improvement.

Prior to June 2007, the SPEQ and Order Reports/Administrative Reports were two criteria included in the standards specified in Exchange Rule 103A Supplementary Material. Given that SPEQ and Order Reports/Administrative Reports no longer provided significant objective measures of specialists' performance in the Hybrid Market, the Exchange sought to suspend the use of both measures as criteria for the implementation of a performance improvement action during the Moratorium. Through this filing, the Exchange seeks to continue this suspension for the duration of the Moratorium.

Creation of a New Process

The Exchange intends to establish a quantifiable measure in order to determine a specialist unit's eligibility to participate in the new Allocation Process. The Exchange intends to formally submit a proposal to the Commission to amend Exchange rules that govern the allocation of securities to specialist units and other related rules by the end of June 2008.

The Exchange believes that the use of a single objective measure to determine specialist unit eligibility for allocation will create a more efficient process that is consistent with the Exchange's current more electronic trading environment.

Conclusion

The Exchange therefore requests to extend the Moratorium on the administration of the SPEQ pursuant to Exchange Rule 103A and the use of the SPEQ pursuant to Exchange Rule 103B until September 30, 2008. In addition, the Exchange proposes to continue to suspend the use of SuperDot turnaround for orders received and the use of responses to administrative messages as objective measures in the assessment of specialist performance during the Moratorium. The Exchange further proposes that the SPEQ and Order Reports/Administrative Responses continue to be removed from the criteria used to commence a specialist performance improvement action during the Moratorium.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [11] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [12] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer. Due to the Exchange's transition to a more electronic market, the current SPEQ, SuperDot turnaround for orders received and response to administrative messages no longer provide meaningful objective standards to evaluate specialist performance in the Hybrid Market. The Exchange requests this continued extension of the Moratorium to determine whether elimination of the SPEQ as well as SuperDot turnaround for orders received and response to administrative messages as objective measures would remove an impediment to a free and open electronic market which would result in the more economically efficient execution of securities transactions. Given the current trend to a more electronically based market, the Exchange believes that the use of more objective and detailed measures will promote healthy competition between specialist units and ultimately result in better market-making for Exchange customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78k–1(a)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[15] However, Rule 19b–4(f)(6)(iii) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five-day prefiling requirement and the 30-day pre-operative delay and designate the proposed rule change to become operative upon filing.

The Commission believes that waiving the five-day prefiling requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to extend the Moratorium without interruption. The Commission designates the proposal to become effective and operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *Id.*

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2008–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–51. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–51 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15067 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58050; File No. SR–NYSE–2008–53]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending NYSE Rule 123D (Openings and Halts in Trading) To Provide for a Limited Exemption for Securities Trading on the Exchange That Are Part of the Russell Index Reconstitution

June 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 27, 2008, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. NYSE filed the proposed rule change as a ''non-controversial'' proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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

NYSE proposes to amend NYSE Rule 123D to exempt orders for any security that is trading on the Exchange on June 27, 2008, and is part of the Russell Index Reconstitution[5] (a ''Russell Stock''), from the provisions of the non-regulatory trading halt condition designated as ''Sub-penny trading'' as set forth in subsection (3) of the rule. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Through this filing, the Exchange proposes to amend NYSE Rule 123D to provide a limited exemption for orders in a Russell Stock that is trading on the Exchange on June 27, 2008, and is part of the Russell Index Reconstitution, from the provisions of the non-regulatory trading halt condition designated as ''Sub-penny trading'' pursuant to NYSE Rule 123D(3).

Background

Pursuant to NYSE Rule 123D(3), whenever a security trading on the Exchange is reported on the consolidated tape during normal trading hours as having traded at a price of $1.05 or less, or if a security would open on the Exchange at a price of $1.05 or less, trading in the security on the Exchange shall be immediately halted due to a ''Sub-penny trading'' condition. Once halted for such reason, trading shall not resume on the Exchange until the security has traded on another automated trading center, as defined in Rule 600(b)(4) of Regulation NMS (''Reg NMS''),[6] for at least one entire trading day at a price or prices that are at all times at or above $1.10. Any such resumption of trading shall occur at the beginning of a trading day, so that normal opening procedures can apply. In contrast to other trading halts described in NYSE Rule 123D, a ''Sub-penny trading'' halt is automatic and does not require the approval of any Floor Officials. However, if a determination is made by a Floor Official that a trade that triggered a halt because of a ''Sub-penny trading'' condition was made in error or otherwise was an anomaly, trading of the security on the Exchange will resume immediately. Orders entered with the Exchange in a security subject to a ''Sub-penny trading'' condition halt will be routed to NYSE Arca, where they will be handled in accordance with the rules governing that market. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] On June 27, 2008, the Russell Investment Group will reconstitute certain of its indices, including the Russell 3000® Index and the Russell Microcap® Index.

[6] *See* 17 CFR 242.600(b)(4).

Exchange will cancel any open limit orders in the Display Book system with respect to securities that become subject to a ''Sub-penny trading'' condition halt.

Exemption From NYSE Rule 123D(3)

The Exchange seeks, through this filing, a limited exemption from the provisions of NYSE Rule 123D(3) on June 27, 2008. The Exchange believes that this exemption is necessary to address the possibility that a particular Russell Stock might open or trade on the Exchange at a price of $1.05 or less, thereby invoking the ''Sub-penny trading'' condition halt. In that instance, trading in the Russell Stock would be halted on the Exchange for the rest of the trading day and unexecuted limit orders remaining on the Display Book would be cancelled. More importantly, there would be no closing transaction on the Exchange for the Russell Stock on the day a ''Sub-penny trading'' condition halt was in effect and thus, no ability to price such stock during the Russell Index Reconstitution.

Pursuant to this proposed limited exemption, the Exchange would not invoke the ''Sub-penny trading'' halt if the Russell Stock opened or traded on the Exchange at a price of $1.05 or less. Rather, the Exchange would permit the Russell Stock to continue to trade. If such stock were to trade at a price of $0.99 or less, a non-regulatory trading condition designated as ''Equipment Changeover'' would be implemented. When an ''Equipment Changeover'' condition trading halt is invoked, Exchange Systems will continue to accept all orders in the Russell Stock. Open orders in the Russell Stock on the NYSE Display Book system will not be cancelled nor will such orders be routed to NYSE Arca. Instead, all orders that have been entered will be aggregated for purposes of a closing transaction pursuant to all relevant NYSE rules governing the close. The Exchange believes that only one Russell Stock trading on the Exchange could potentially be eligible for a ''Sub-penny trading'' condition halt on June 27, 2008. Accordingly, the Exchange states that this limited exemption is applicable to only one such Russell Stock. If such security does not trade at a price of $1.05 or less, this limited exemption would prove unnecessary and would expire at the close of trading on June 27, 2008.

The Exchange believes further that this limited exception would ensure that on June 27, 2008, each Russell Stock would be subject to pricing on the NYSE close, removing the possibility that such stock might be adversely affected on the close, causing potential harm to the market and to investors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change would ensure that trading in Russell Stocks and the Russell Index Reconstitution on June 27, 2008, would proceed without any impediment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange states that written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the five business-day pre-filing requirement and the 30-day operative delay so that it may immediately implement the limited exemption to the provisions of NYSE Rule 123D to ensure that Russell Stocks would be subject to pricing on the NYSE close on June 27, 2008. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

The Commission believes that waiving the 30-day operative delay and five business-day pre-filing requirement is consistent with the protection of investors and the public interest.[11] The Commission believes that this narrowly tailored exception to NYSE Rule 123D(3), lasting only for the duration of one trading day, should help to ensure fair and orderly markets on June 27, 2008, the day of the Russell Index Reconstitution. The Commission notes that the requirements of Rule 611 of Reg NMS[12] would still apply. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission is waiving the five business-day requirement.

[11] For purposes only of waiving the 30-day operative delay and five business-day pre-filing requirement, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] *See* 17 CFR 242.611.

Number SR–NYSE–2008–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–53. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–53 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15070 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58040; File No. SR–NYSE–2008–50]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend NYSE Rule 104.10 To Extend the Duration of the Pilot Program Applicable to Conditional Transactions in All Securities to September 30, 2008

June 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule19b–4 thereunder,[2] notice is hereby given that on June 23, 2008, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities to September 30, 2008. The text of the proposed rule change is available at NYSE, *http://www.nyse.com*, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities for an additional three months until September 30, 2008.

On October 26, 2007, the Commission approved the ability of NYSE specialists to effect Conditional Transactions pursuant to NYSE Rule 104.10(6) in all securities traded on the NYSE to operate as a pilot through March 31, 2008 (the ''Conditional Transaction Pilot'').[5]

(a) Current Conditional Transaction Pilot

Conditional Transactions are specialists' transactions that establish or increase a position and reach across the market to trade as the contra-side to the Exchange published bid or offer. Under the current Conditional Transaction Pilot, NYSE specialists are allowed to effect Conditional Transactions in all securities traded on the NYSE until June 30, 2008.

When a specialist effects a Conditional Transaction, he or she has obligations to re-enter the market on the opposite side from which the specialist effected his or her Conditional Transaction pursuant to the rule. Specifically, pursuant to NYSE Rule 104.10(6)(ii), ''appropriate'' re-entry means ''re-entry on the opposite side of the market at or before the price participation point or the 'PPP.' ''[6] Depending on the type of Conditional Transaction, a specialist's obligation to re-enter may be immediate or subject to the same re-entry conditions of Non-Conditional Transactions.[7] Conditional

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 56711 (October 26, 2007), 72 FR 62504 (November 5, 2007) (SR–NYSE–2007–83). The Pilot was extended for an additional three months until June 30, 2008. *See* Securities Exchange Act Release No. 57592 (April 1, 2008), 73 FR 18836 (April 7, 2008) (SR–NYSE–2008–23).

[6] NYSE Rule 104.10(6)(iii)(a) provides that the PPP identifies the price at or before which a specialist is expected to re-enter the market after effecting a Conditional Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee that a specialist is meeting its obligations. The Exchange issued guidance regarding PPPs in January 2007. *See* NYSE Member Education Bulletin 2007–1 (January 18, 2007).

[7] NYSE Rule 104.10(6)(iii)(c) provides that immediate re-entry is required after the following Conditional Transactions:

Transactions are subject to a specialist's overall negative obligation.[8] As a condition of operating the Conditional Transaction Pilot, the Exchange committed to providing the Commission with data related to specialist executions of Conditional Transactions. The Exchange has provided the Commission's Division of Trading and Markets and Office of Economic Analysis with statistics related to market quality, specialist trading activity and sample statistics for the months of November 2007 through May 2008. The data includes the daily Consolidated Tape volume in shares, daily number of trades, daily high-low volatility in basis points, and daily close price in dollars.

The Exchange continues to calculate the specialist's profit on round-trip Hit Bid and Take Offer (''HB/TO'') executions. This is accomplished by measuring the specialist's profit on HB/TO activity by taking the round-trip trading profits for all HB/TO trades where the specialist executes an offsetting trade within 30 seconds. In cases where the volume of the offsetting execution is less than the size of the HB/TO execution, the calculation will only include profits realized within the 30-second window.

The Exchange continues to calculate the quote-based specialist re-entry ratio. Each re-entry price level is categorized and reported separately. In addition, the Exchange continues to provide the Commission with data related to the average realized spread on specialist HB/TO executions. These calculations are done using the same formula as SEC Rule 605. Specifically, the average realized spread is a share-weighted average of realized spreads. For specialist buys, it is double the amount of difference between the execution price and the midpoint of the consolidated best bid and offer five minutes after the time of HB/TO execution. For specialist sells, it is double the amount of difference between the midpoint of the consolidated best bid and offer five minutes after the time of HB/TO execution and the execution price.

The Exchange will continue to provide all the aforementioned information to the Commission on or before the 15th of the calendar month directly following the data month. The Exchange will maintain average measures for each stock-day during a particular month in order to provide such information to the Commission upon request.

Furthermore, NYSE Regulation, Inc. (''NYSER'') believes that it has appropriate surveillance procedures in place to surveil for compliance with the negative obligations of specialists. NYSER monitors, using a pattern-and-practice and/or outlier approach, specialist activity that appears to cause or exacerbate excessive price movement in the market (since such transactions would appear to be in violation of a specialist's negative obligation). In this connection, NYSER continues to surveil for specialist compliance with the PPP re-entry requirements, and, based on its reviews of surveillance data to date, has not identified significant compliance issues. The Division of Market Surveillance of NYSER also monitors specialist trading to cushion such price movements.

(b) Conclusion

The Exchange believes that an extension of the current Conditional Transaction Pilot program will continue to provide NYSE specialists with the flexibility to compete and to efficiently and systematically trade and quote in their securities as well as equip them to fluidly manage their risk.

In view of the above, the NYSE believes it is appropriate to extend the operation of the Conditional Transaction Pilot program for an additional three months until September 30, 2008.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5)[9] of the Act that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[10] in that it seeks to assure economically efficient execution of securities transactions. The Exchange believes that extending the operation of the Conditional Transaction Pilot will provide specialists with the required flexibility to compete, thus adding value to the Exchange market by encouraging specialists to continue to commit capital. Ultimately, the Exchange believes that the Conditional Transaction Pilot benefits the marketplace by allowing specialists to manage their risk and, therefore, provides them with the ability to increase the liquidity they provide at prices outside the best bid and offer, as well as meet their obligation to bridge temporary gaps in supply and demand and dampen volatility.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

(I) A purchase that (1) Reaches across the market to trade with an Exchange published offer that is above the last differently priced trade on the Exchange and above the last differently priced published offer on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published offer size.

(II) A sale that (1) Reaches across the market to trade with an Exchange published bid that is below the last differently priced trade on the Exchange and below the last differently priced published bid on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published bid size.

Pursuant to current NYSE Rule 104.10(6)(iv), Conditional Transactions that involve:

(a) A specialist's purchase from the Exchange published offer that is priced above the last differently-priced trade on the Exchange or above the last differently-priced published offer on the Exchange; and

(b) A specialist's sale to the Exchange published bid that is priced below the last differently-priced trade on the Exchange or below the last differently-priced published bid on the Exchange are subject to the re-entry requirements for Non-Conditional Transactions pursuant to Rule 104.10(5)(i)(a)(II)(c).

NYSE Rule 104.10(5)(i)(a)(II)(c) provides:

Re-entry Obligation Following Non-Conditional Transactions—The specialist's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market trend after effecting one or more Non-Conditional Transactions. Such re-entry transactions should be commensurate with the size of the Non-Conditional Transactions and the immediate and anticipated needs of the market.

[8] The negative obligation, which is part of NYSE Rule 104, requires that specialists restrict their dealings so far as practicable to those reasonably necessary to permit the specialists to maintain a fair and orderly market. Specifically, NYSE Rule 104(a) provides:

No specialist shall effect on the Exchange purchases or sales of any security in which such specialist is registered, for any account in which he, his member organization or any other member, allied member, or approved person, (unless an exemption with respect to such approved person is in effect pursuant to Rule 98) in such organization or officer or employee thereof is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as an odd-lot dealer in such security.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1(a)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder [12] because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[13] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[14] which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Conditional Transaction Pilot to continue without interruption through September 30, 2008 and provide the Exchange and the Commission additional time to evaluate the pilot.[15] Accordingly, the Commission designates the proposed rule change effective and operative upon filing with the Commission.

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.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2008–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–50. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2008–50 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15100 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58052; File No. SR–NYSE–2008–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending NYSE Rule 98 and Related Rules To Redefine Specialist Operations at the NYSE

June 27, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 11, 2008, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 98 and related rules to redefine specialist operations at the NYSE. The text of the proposed rule change is available at NYSE's principal office, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE is proposing to amend Rule 98 to reduce the regulatory burdens imposed by the rule and to provide flexibility to member organizations as to how they can structure their specialist operations and manage their risks. In particular, because of changes to the marketplace, including changes to the specialist's role as a result of the increased use of electronic trading, the Hybrid Market®, and Regulation NMS, as well as technological advances in surveillance and internal controls, the NYSE believes that current Rule 98 imposes unnecessary restrictions on member organizations seeking to engage in specialist operations at the Exchange.

Accordingly, the NYSE proposes revising Rule 98 in its entirety to provide a framework for specialist operations that meet both the regulatory concerns of the current rule and the reality of today's marketplace. In addition to changes to Rule 98, the NYSE proposes making conforming changes to other NYSE rules that rely on Rule 98 exemptions for approved persons. As discussed in further detail below, the revisions to Rule 98 would include: (1) Redefining the persons to whom Rule 98 would apply; (2) allowing specialist operations to be integrated into better capitalized member organizations; (3) permitting a specialist unit to share non-trading related services with its parent member organization or approved persons; and (4) providing flexibility to member organizations and their approved persons in how to conduct risk management of specialist operations.

To achieve these changes, the NYSE proposes shifting the paradigm of Rule 98 from one that assumes that the approved persons of a specialist member organization are subject to certain NYSE rules unless an exemption is provided to one where NYSE Regulation, Inc. (''NYSE Regulation'') reviews whether a trading unit that proposes to engage in specialist operations is sufficiently walled off from either its approved persons or parent member organization. Under the new paradigm, rules governing specialist operations, such as Rule 104, will apply only to the unit approved to engage in specialist operations at the NYSE.

As the NYSE market model continues to evolve, the NYSE believes that the proposed amendments to Rule 98 will provide a platform from which to further modernize specialist operations.

A. Background

The NYSE adopted Rule 98 in 1987 in response to consolidation in the securities industry, when NYSE specialist firms that had been independent member-owned entities increasingly became subsidiaries of larger, better capitalized broker-dealers. Because of the specialists' unique position within the markets, and the restrictions on dealers under section 11(a) of the Act,[3] the Exchange crafted a rule that governed how larger member organizations could be connected to specialist firms.

The rule establishes a functional separation between the specialist organization and the rest of the broker-dealer. The purpose of that separation was to eliminate or control conflicts of interest between the specialist's actions as market maker in an issuer's securities and other interactions among the specialist's parent or sibling entities and the issuer.

In its current form, Rule 98 applies to specialist units and so-called ''approved persons'' of a specialist organization—that is, entities that are in a control relationship with a specialist organization, or share a common corporate parent with the specialist organization and are engaged in a kindred business.[4] Such entities are, by virtue of their association with the specialist organization, subject to the rules and restrictions applicable to specialists. These include, among other things, restrictions on the approved persons' ability to trade in specialty stock options, restrictions on certain of their business transactions with issuers for whom the specialist organization is the registered specialist, and limits on the amount of securities of such issuers that the specialist and approved persons may own in the aggregate.

So as not to unreasonably hamstring a broker-dealer organization overall, Rule 98(b) provides that an approved person may seek Exchange approval to be exempted from most of those restrictions. To obtain a Rule 98(b) exemption, the approved person must establish policies and procedures that are consistent with the Guidelines for Approved Persons Associated with a Specialist's Member Organization (''Rule 98 Guidelines''). These guidelines set out in detail how approved persons and associated specialist organizations should structure and conduct their respective businesses in order to ensure complete separation between the specialist organization and the rest of the member organization.

Among other things, the Rule 98 Guidelines provide that the specialist member organization be housed in a separate corporate entity and broker-dealer from its approved persons. Further, to ensure that information does not flow improperly from the specialist organization to approved persons and that approved persons do not have undue influence over particular trading decisions by the specialist, the guidelines establish ''functional regulations'' that enforce the required separateness. These include requirements that the organizations maintain separate books and records, separate financial accounting, and separate required capital, and that each organization have in place procedures to safeguard confidential information derived from business interactions with the issuer or contained in draft research reports prepared by the approved person.

The assumption that all entities affiliated with a specialist are subject to specialist rules unless they have obtained a Rule 98(b) exemption creates a substantial administrative burden on specialist organizations and their approved persons: Each approved person of a specialist organization must establish and continually update a separate exemption under Rule 98 if it wishes to engage in activity that would otherwise be restricted under applicable specialist rules. This burden creates a real and substantial barrier to entry for new broker-dealers who may want to establish specialist units.

In the face of significant structural changes to the NYSE and the equity markets, and in recognition of the vastly different competitive landscape compared to 1987, the Exchange believes that Rule 98 must be updated in order to provide both existing and prospective specialist firms with the necessary tools to remain competitive while at the same time meeting their obligations as specialists at the NYSE. The proposed changes to Rule 98 also address the Exchange's desire to ease the burdens of a new member organization seeking entry to supplement the six specialist firms currently trading on the Exchange, or the very real possibility of such a firm replacing one or more of the existing specialist firms if they withdraw from the market. Concerning the latter possibility, the NYSE notes that this is not just a theoretical concern: Within the past six months, two specialist firms have already withdrawn.

[3] *See* 15 U.S.C. 78k(a).

[4] *See* NYSE Rules 2(d) and 304(e).

To address these very real concerns, the Exchange proposes to fundamentally amend Rule 98. The proposed rule is described in detail below, but at root, the amendment reverses the assumption that all affiliated entities of a specialist firm are automatically governed by the rules applicable to specialists, and shifts the focus of the rule onto the specialist unit rather than the approved person.

As part of this restructuring, the NYSE proposes to eliminate the prescriptive approach of the current rule and move towards a more principle-based approach. The NYSE believes that a principle-based rule closely overseen by NYSE Regulation can achieve the same goals as a rule that attempts to enumerate every possible situation that must be avoided. For that, the proposed rule still requires NYSE Regulation to review whether a specialist unit's policies and procedures are reasonably designed to protect confidential information. However, the rule provides sufficient flexibility so that as the type of information that needs to be protected and the manner in which such information can be protected evolves with changes to the trading environment, so too can the manner in which NYSE Regulation conducts its review.

The NYSE believes that the proposed changes to Rule 98 will minimize regulatory burdens and barriers to entry while at the same time provide the necessary level of regulatory scrutiny to ensure that confidential information continues to be protected. In addition, the proposed changes will reduce the regulatory burdens on existing specialist member organizations to enable them to continue such operations at lower cost.

B. Proposed Amendments to Rule 98

1. Applicability of Rule 98

Under the proposed rule, a member organization seeking to operate a specialist unit, either as its entire business or as one of its trading units, would need to apply for and be approved by NYSE Regulation before it can begin, or if applicable, continue operations as a specialist unit. As described in more detail below, NYSE Regulation will review whether a proposed specialist unit has: (1) Adopted written policies and procedures governing the conduct and supervision of the business handled by the specialist unit; (2) established a process for regular review of such written policies and procedures; and (3) implemented controls and surveillances reasonably designed to prevent and detect violations of those policies and procedures. Among other things, these policies and procedures must be reasonably designed to protect specialist confidential information and non-public order information, as defined below.

Once approved, the NYSE specialist rules, as defined below, including Rule 104, would generally only be applicable to the approved specialist unit and not to its approved persons or, if applicable, parent member organization. As discussed in more detail below, on a case-by-case basis, NYSE Regulation will assess whether an integrated proprietary aggregation unit that manages the risk for a specialist unit could be subject to the specialist rules if the integrated proprietary aggregation unit causes the specialist unit to violate its obligations.

The NYSE recognizes that despite the proposed rule changes, an existing specialist member organization may determine to either keep its current operational structure or wait before it implements changes to its operational structure, as permitted by the proposed amended rule. Because current Rule 98 would still be applicable to those specialist units that would not have yet sought the relief available under proposed Rule 98, the Exchange proposes keeping current Rule 98 in its rulebook as ''Rule 98 (Former)'' until such time as all specialist units are approved pursuant to proposed Rule 98(c). Any new entrant to become a specialist unit would be required to comply with proposed Rule 98; current Rule 98 procedures would not be available to new entrants to the specialist business. As proposed, current Rule 98(b) exemptive relief would be available only so long as the member organization and its approved persons have not materially changed their operational structure, internal controls, or compliance and audit procedures. In such case, the current Rule 98, *i.e.* , Rule 98 (Former), would govern the specialist member organization and its approved persons.[5] Any significant changes to the status quo after the effective date of the proposed new rule would require the member organization to apply for approval pursuant to the procedures described below.

The Exchange recognizes that an existing specialist member organization that does not implement structural changes to its operations that would require it to apply for approval under the proposed rule may still need certain relief available under the proposed version of the Rule. Accordingly, the Exchange proposes that a member organization operating pursuant to Rule 98 (Former) may apply for relief pursuant to proposed Rule 98(e), which concerns sharing non-trading related services, without first obtaining approval under other provisions of proposed Rule 98. In such situation, the specialist member organization would need to apply for approval from NYSE Regulation to share non-trading related services, as specified in proposed Rule 98(e). If approved, except for the sharing of non-trading related services, such member organization and its approved persons would continue to be subject to Rule 98 (Former) as well as the ''(Former)'' versions of NYSE rules that reference exemptions from Rule 98 for approved persons, as discussed in more detail below.

Once approved pursuant to proposed Rule 98 to operate a specialist unit, share non-trading related services, or engage in risk management, any material changes in how a specialist unit operates its business would require the specialist unit to resubmit its revised written policies and procedures to NYSE Regulation for review. For example, if a specialist unit is approved to operate as a stand-alone aggregation unit and would like to change its business operations to include the specialist unit as part of a larger integrated proprietary aggregation unit, as permitted by proposed Rule 98(d), such change would require pre-approval.

2. Proposed Definitions

To ensure clarity, the proposed amendments include a number of defined terms that are applicable throughout the rule. These definitions are designed to provide a level of scalability to the rule so that as the NYSE market model evolves, the definitions used throughout the rule will have common meaning. Among the proposed definitions are:

• ''Specialist unit''—this definition is intended to apply to any trading unit that is seeking approval to operate as a specialist at the Exchange. As proposed, a specialist unit could be a stand-alone member organization, an aggregation unit within a member organization, or a trading unit (or ''desk'') within a larger

[5] As discussed in more detail below, in addition to amending Rule 98, the Exchange proposes to amend related rules that reference the current Rule 98 exemptions for approved persons. To ensure that member organizations operating pursuant to Rule 98 (Former) are subject to the appropriate rules, the Exchange proposes to maintain two forms of the related rules: the amended version and an otherwise unchanged version, except for the title ''(Former)'' added to the unamended version of the rule or, if applicable, the section affected by the proposed rule change. Once all member organizations are subject to the proposed Rule 98, the Exchange will file to delete any ''Former'' versions of Rule 98 and the related rules or sections.

aggregation unit. Regardless of which corporate structure a member organization chooses, the term ''specialist unit'' would refer to the unit that is responsible for specialist activities at the Exchange. If approved pursuant to proposed Rule 98(c), a specialist unit would be eligible for allocations under NYSE Rule 103B and be subject to specialist rules. For purposes of Exchange rules, the term ''specialist unit'' is synonymous with the term ''specialist organization'' or ''specialist member organization.''

• ''Specialist's account''—this definition refers to any account through which a specialist unit trades at the Exchange. Sometimes referred to as a dealer account, this revised definition would encompass any of the variously-defined accounts that a specialist unit may use to trade at the Exchange.

• ''Specialist rules''—this definition refers to those rules that govern specialist conduct or trading at the Exchange. Currently, the specialist rules include, among others, Rules 104, 105, and 113, but as the rules at the Exchange change, these rule designations may change. Accordingly, so that proposed Rule 98 evolves along with changes to other rules, this proposed definition does not identify specific rules.

• ''Specialist confidential information''—this definition concerns the principal or proprietary trading activity of a specialist unit at the Exchange in the securities allocated to it pursuant to Rule 103B, including the unit's positions in those securities, decisions relating to trading or quoting in those securities, and any algorithm or computer system that is responsible for such trading activity and that interface with Exchange systems, such as the specialist application protocol interface (''specialist API'').[6] The definition does not include information about non-public order information, as described below.

• ''Non-public order''—this definition refers to any information relating to order flow at the Exchange, including verbal indications of interest made with an expectation of privacy, electronic order interest, e-quotes, reserve interest, or information about imbalances at the Exchange, that is not publicly-available on a real-time basis via an Exchange-provided datafeed, such as NYSE OpenBook®, or otherwise publicly-available. The definition also encompasses information regarding a reasonably imminent non-public transaction or series of transactions. For example, if in requesting information about the state of the Book, a Floor broker informs the specialist about an order that he or she has, such information would fall under the definition of ''non-public order.'' As defined, non-public orders include order information at the open, any re-openings, the close, when the security is trading in a slow mode (*e.g.,* in a Gap quote or LRP situation), and any other information in the NYSE Display Book®[7] that is not available via NYSE OpenBook®.[8] As proposed, the linchpin to the definition of ''non-public order'' is that it is information not publicly available on a real-time basis. Currently, specialists have unique access to certain non-public order information. However, in its proposed new market model, the Exchange will be proposing to change the specialist's access to such non-public order information. The proposed definition is intended to take into consideration such future changes so that as the specialist's or specialist API's access to non-public order information changes, so will the specialist unit's responsibilities to protect that information change, but without having to revise Rule 98.

• ''Investment banking department'' and ''Research department''—these definitions refer to the same departments that are defined as such in NYSE Rule 472 and NASD Rule 2711.

• ''Customer-facing department''—this definition is intended to encompass any department, division, market-making desk, aggregation unit, or trading desk that receives, routes, or executes orders for customer execution or clearing accounts, regardless of whether such unit also engages in principal or proprietary trading. A hallmark of this definition is that a customer has an expectation of confidentiality and best execution on its behalf, which could include a customer that is another broker-dealer. Examples of trading desks that would meet this definition include a Nasdaq market-making desk and most block-trading desks. However, this definition is not intended to include an aggregation unit that solely conducts proprietary trading or proprietary market making (sometimes referred to as electronic market making).

• ''Aggregation unit''—this definition adopts the standard of Rule 200(f) of Regulation SHO.[9] The proposed rule uses this term throughout to refer to any department, division, unit, or trading desk that has been segregated pursuant to the requirements of Regulation SHO. The NYSE believes that the Regulation SHO requirements for establishing an aggregation unit, including any requirements for information barriers, would be sufficient for segregating a specialist unit's operations from the remainder of a member organization or its approved persons.

• ''Non-trading related services''—this definition refers to the type of support services that a specialist unit may share with its parent member organization or approved person. The core of the proposed definition is that the type of services are not related to making decisions about the day-to-day trading of the specialist unit or provide trading support to such activity, such as by a trading assistant or specialist clerk. Examples of non-trading related services include stock loan (so long as consistent with Regulation SHO), clearing and settlement, controllers (for financial accounting purposes), technology support, and personnel who develop applications and algorithmic models.

• ''Integrated proprietary aggregation unit''—this definition is intended to encompass any aggregation unit that has a trading objective to engage in proprietary trading, including proprietary market-making activities. As defined, an integrated proprietary aggregation unit must not include any activities that would be performed by an investment banking, research, or customer-facing department. Subject to proposed Rule 98(d), a specialist unit could be part of a member organization's integrated proprietary aggregation unit. Alternatively, an approved person or member organization could maintain an integrated proprietary aggregation unit separate from the specialist unit. In such case, the definition of an integrated proprietary aggregation unit becomes relevant in connection with proposed Rule 98(f)(3) and the ability of an approved person to engage in risk management activities on behalf of the

[6] The specialist API is the electronic link between specialist trading algorithms and the NYSE Display Book®. Via this interface, specialist organization trading algorithms send quoting and trading messages to the Exchange for implementation in the NYSE Display Book®, and the Exchange transmits information necessary to acting as a specialist to specialist organizations.

[7] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the specialists, contains the Book, and provides a mechanism to execute and report transactions and publish results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[8] NYSE OpenBook® provides aggregate limit-order volume that has been entered on the Exchange at price points for all NYSE-traded securities.

[9] *See* 17 CFR 242.200(f).

specialist unit of an associated member organization.

• ''Related products''—this definition refers to any derivative instrument that is related to a security allocated to a specialist unit. It can include options, warrants, hybrid securities, single-stock futures, security-based swap agreements, a forward contract, or any other contract that is exercisable into or whose price is based upon or derived from a security listed at the Exchange. The list referenced in the definition is not intended to be exhaustive and the definition is intended to cover any existing or future products that could be related to a security listed at the Exchange.

3. Proposed Rule 98(c): Approval to Operate a Specialist Unit

Pursuant to proposed Rule 98(c), a member organization must obtain prior written approval from NYSE Regulation before it can operate a specialist unit. For approval, a specialist unit must demonstrate that it has: (i) Adopted and implemented comprehensive written procedures and guidelines governing the conduct and supervision of business handled by the specialist unit; (ii) established a process for regular review of such written policies and procedures; and (iii) implemented controls and surveillances reasonably designed to prevent and detect violations of these procedures and guidelines.

As proposed, these policies and procedures must be reasonably designed to provide that the specialist unit will maintain the confidentiality of both specialist confidential information and non-public orders. The proposed rule enumerates certain bright-line divisions that the specialist unit must maintain, including information barriers between the specialist unit and investment banking, research, and customer-facing departments and approved persons. Such information barriers should guarantee confidentiality two ways: the specialist unit cannot access material non-public information about securities allocated to that unit from either its approved persons or non-specialist operations of a parent member organization and vice versa.

With respect to a specialist unit's internal controls and surveillances, NYSE Regulation will be reviewing such surveillance plans to determine whether they are reasonably designed to protect information as required under the proposed rule. Where feasible, NYSE Regulation will expect specialist units to use automated surveillances to check for breaches of the information barriers required by the proposed rule. As with the current rule, NYSE Regulation will also review whether a member organization has implemented internal audit procedures relating to compliance with the proposed Rule 98 policies and procedures.

In addition to the specific information barriers enumerated in the proposed rule, if a member organization proposes to operate a specialist unit as a stand-alone unit, the Exchange proposes importing the requirements of a Regulation SHO independent trading unit for specialist units. Accordingly, as required by Rule 200(f) of Regulation SHO,[10] NYSE proposes requiring a specialist unit to have a written plan of organization that specifies its trading objectives and meet all of the other requirements of an independent trading unit under Regulation SHO. If a specialist unit seeks to avail itself of the exemption from NYSE Rule 105 under proposed Rule 98(f)(1), that written plan of organization would need to include its trading objectives for trading in related products.

As with the current rule, proposed Rule 98 would require the specialist unit to maintain net capital sufficient to meet the requirements of NYSE Rule 104.21. The NYSE believes that if a specialist unit is integrated within a larger member organization, the net capital requirement can be met by having the requisite capital amount allocated to the specialist unit by the member organization.

Despite the segregations required by the rule, the NYSE believes that senior managers who are not dedicated to the specialist unit and are associated with either an approved person or a member organization that runs a specialist unit should still be able to provide management oversight to the specialist unit. As proposed, the revised rule is not intended to be more restrictive than the current rule, which permits an approved person to provide general oversight over its associated specialist member organization. The proposed rule instead shifts from a detailed list of specific types of oversight that is permissible to a principle-based approach that focuses on protecting specialist confidential information and non-public order information. As with the current rule, as proposed, senior management oversight of a specialist unit should not conflict with or compromise in any way with the specialist unit's market-making obligations.

Proposed Rule 98(c)(2)(E) provides guidance on how a member organization or approved person should handle situations where a senior manager is called upon for risk management purposes and in connection with that role, gains access to specialist confidential information or non-public order information. The Exchange notes that non-public order information could become stale if the order is executed or cancelled without the specialist's knowledge. To ensure that there is no misuse of such information, whether material or not, the senior manager must not make (directly or indirectly) specialist confidential information or non-public order information available to the persons or systems responsible for making trading decisions in aggregation units, departments, divisions, or trading desks that are not part of the specialist unit, including the customer-facing departments. The senior manager also must not use such information to directly or indirectly influence the day-to-day trading decisions of the other aggregation units of the member organization or approved person with respect to the securities allocated to the specialist unit.

The NYSE believes that these restrictions on the use of specialist confidential information and non-public order information are similar to how broker-dealers currently handle situations where a senior manager has oversight over multiple aggregation units and in such capacity, becomes privy to confidential information of one aggregation unit. For such situations, broker-dealers have already developed procedures for protecting confidential information and the NYSE believes that such procedures should be reasonable for the oversight of a specialist unit as well.

The Exchange notes that although the proposed amendments to Rule 98 eliminate the exemption process under current Rule 98(b), the review that NYSE Regulation would conduct when approving a specialist unit would be as rigorous as the current review for obtaining an exemption, just simply a different focus of what is reviewed. As with the current Rule 98 exemption process, staff from both the Market Surveillance Division of NYSE Regulation as well as relevant staff from the Financial Industry Regulatory Authority, Inc. (''FINRA''), who are responsible for the routine examinations of specialist units, would be involved in reviewing a specialist unit's written policies and procedures and proposed automated surveillances and controls.[11]

[10] *See* 17 CFR part 242.200(f).

[11] In connection with the July 2007 transfer of certain member firm regulation functions from NYSE Regulation to FINRA, NYSE Regulation and FINRA entered into a regulatory services agreement (''RSA'') whereby FINRA agreed to provide NYSE Regulation with certain services relating to NYSE's

For existing specialist firms, the initial approval process associated with any changes to how they operate may require upfront work to ensure that the specialist unit's policies and procedures are reasonably designed to meet the requirements of the proposed rule. However, unlike the current rule, as proposed, specialist units would be relieved of the requirement to update any written statements to the Exchange for changes in approved persons or dually-affiliated employees. Once approved, NYSE Regulation and FINRA would examine whether a specialist unit's policies and procedures continue to meet the rule requirements and whether the implemented controls and automated surveillances are functioning as designed. As part of such examination review, NYSE Regulation and FINRA will conduct on-site reviews of a specialist unit to review for breaches of the controls or surveillances. And, as noted above, if the specialist unit proposes making any material changes to its operations, it would need to seek additional approval before it can change its operations.

4. Proposed Rule 98(d): Operating a Specialist Unit Within an Integrated Proprietary Unit

One of the goals of proposed Rule 98 is to provide a member organization with greater flexibility in how it manages the risk of a specialist unit. As discussed below, in proposed Rule 98(f), the NYSE proposes providing member organizations with an array of options of how to conduct risk management. The NYSE believes that the flexibility afforded by these options will meet the varying business models of the member organizations currently operating or seeking to operate a specialist unit at the Exchange.

As discussed in more detail below, one proposed risk management model would be to permit a member organization to integrate a specialist unit within a larger aggregation unit that meets the requirements of an integrated proprietary aggregation unit. Proposed Rule 98(d) sets forth the minimum requirements for how to structure such an integrated unit. While such a unit would be considered a single aggregation unit for Regulation SHO purposes, as proposed, the member organization would need to establish information barriers within the integrated proprietary aggregation unit to restrict access to non-public order information to the specialist unit only. And depending on the risk management model proposed by a specialist unit, a member organization or approved person may need to further segregate the flow of information within a specialist unit.

As proposed, the specialist unit that would operate within the integrated proprietary aggregation unit would need to meet the requirements of proposed Rule 98(c)(2)(A), (C), (D), and (E) of the rule, which concern the information barriers associated with the specialist unit and non-specialist unit operations, net capital requirements, and senior management oversight. Because an integrated proprietary aggregation unit that includes a specialist unit would likely already be subject to Rule 200(f) of Regulation SHO that it qualify as an independent trading unit, the specialist unit operating within the integrated proprietary aggregation unit would not need to separately meet the Rule 200(f) requirement for an independent trading unit. Accordingly, as proposed, a specialist unit that operates within an integrated proprietary aggregation unit would not need to meet the requirements of proposed Rule 98(c)(2)(B), which requires a specialist unit to separately comply with all of the Regulation SHO independent trading unit requirements.[12]

In addition to meeting certain requirements of proposed Rule 98(c), under proposed Rule 98(d)(2)(B), the specialist unit must restrict access to non-public order information or specialist confidential information from the rest of the integrated proprietary aggregation unit. Such information barriers must ensure that both individuals and systems that are not assigned to the specialist unit do not have access to non-public order information, or, unless otherwise provided for in proposed Rule 98(f), specialist confidential information.

The NYSE believes that as proposed, Rule 98(d)(2)(B) provides sufficient flexibility for how a member organization structures its operations to evolve as the NYSE market model changes. For example, the specialist API currently has access to limited non-public order information, but does not have access to information available in the NYSE Display Book. So long as the specialist API has access to that non-public order information, the Exchange believes that systems not dedicated to the specialist unit should not be integrated with the specialist API. Accordingly, the trading algorithms of the integrated proprietary aggregation unit that are not dedicated to the specialist unit would not have access to any non-public order information via the specialist API, or any other system.

Proposed Rule 98(d)(2)(B)(iii) addresses the situation of communications from the Floor of the Exchange to the rest of the integrated proprietary aggregation unit. Currently, specialist unit employees on the Floor of the Exchange have access to non-public order information, whether via access to information in the Display Book® or because of verbal representations of imminent orders. The NYSE believes that the best way to ensure that such information is not provided to individuals or systems not dedicated to the specialist unit is to restrict communications while the employee is still on the Floor of the Exchange.

Proposed Rule 98(d)(2)(B)(iv) considers the possibility that an individual who works on the Floor of the Exchange[13] may also, on an intra-day basis, move to an off-Floor location and engage in a non-specialist related role within the integrated proprietary aggregation unit pursuant to proposed Rule 98(d) or for an ''upstairs'' desk trading in related products within the specialist unit pursuant to proposed Rule 98(f)(1). In such case, the individual must not make any non-public order information or, unless specifically provided for, specialist confidential information, available to individuals or systems that are not dedicated to the specialist unit. Nor may that individual use such non-public information, or, except as provided for in the Rule, specialist confidential information, in any way in connection with responsibilities that are not related to Floor-based activities of the specialist unit. For purposes of proposed Rule 98(f)(1), once off the Floor, a specialist may not use non-public information to directly or indirectly trade in related products. However, nothing in the rule

retained responsibilities to examine for compliance with NYSE rules that govern trading on or through the systems and facilities of the Exchange. In particular, pursuant to the RSA, FINRA participates in the current Rule 98(b) exemption process and examines specialist firms for compliances with that rule. As proposed, FINRA would continue to participate in the approval process under the proposed Rule 98 and examine specialist units for compliance with the rule.

[12] The Exchange recognizes that there may be some Regulation SHO issues in connection with how a member organization may choose to structure its specialist unit within an integrated proprietary aggregation unit or provide risk management to the specialist unit pursuant to proposed Rule 98(f). In such case, approval to operate under proposed Rule 98 would not be provided until all Regulation SHO issues that may arise have been resolved.

[13] Note that NYSE rules define being on the Floor to include the trading Floor of the Exchange, and the premises immediately adjacent thereto, such as the various entrances and lobbies of 11 Wall Street, 18 New Street, 12 Broad Street, and 18 Broad Street, as well as the telephone lobby in the first basement of 11 Wall Street. *See* Rule 112(b).

bars a specialist unit from moving personnel among different positions intraday, so long as the restrictions on information flow and use are followed. The NYSE believes that this would provide member organizations with sufficient flexibility to transfer its employees among various roles, including on the Floor of the Exchange and in a specialist unit upstairs location during a given trading day. For intra-day transfers, the Exchange will expect specialist units to have written policies and procedures reasonably designed to ensure that non-public order information and specialist confidential information (unless otherwise permitted) would not be used from an off-Floor location. The Exchange notes that in addition to the information barriers required by proposed Rule 98, specialists must continue to abide by Exchange rules that govern their access to and use of non-public order information.[14]

As noted above, an integrated proprietary aggregation unit would need to qualify as an aggregation unit, which for Regulation SHO purposes, requires the unit to net its positions. While the proposed rule would no longer require separate books and records for a specialist unit, to ensure that NYSE Regulation can review the trading activity by the specialist unit at the Exchange without having to parse through commingled records, under proposed Rule 98(d)(2)(C), in addition to meeting Regulation SHO requirements, an integrated proprietary aggregation unit must maintain records of its specialist's accounts in a manner that is separate from the accounts of the integrated proprietary aggregation unit.[15]

In addition to the above, the integrated proprietary aggregation unit must have written policies and procedures that address how it will ensure that the unit will not engage in any activities that could violate other Exchange rules or federal securities laws and regulations, including Regulation SHO. The policies and procedures must address, at a minimum, how the unit will ensure against front running, wash sales, and market manipulation.

In connection with wash sales, a potential concern for an integrated proprietary aggregation unit is the possibility that the specialist unit could be selling (buying) one of the securities registered to it and an individual or trading system of the integrated proprietary aggregation unit could at the same time be buying (selling) that same security at the Exchange. With the proper use of mnemonics associated with those orders, Exchange systems are capable of rejecting one side of those orders. Because the presumption would be in favor of the specialist unit trading, i.e., to meet its affirmative obligations at the Exchange, the NYSE proposes rejecting the order from the integrated proprietary aggregation unit.

The NYSE also proposes that to the extent an integrated proprietary aggregation unit directs its trading at the Exchange in any security that has been allocated to the specialist unit through the specialist unit, such trading would be subject to the specialist rules. In other words, while the specialist unit would be subject to certain market-making obligations while trading at the Exchange, the integrated proprietary aggregation unit's independent ''upstairs'' operations would be able to trade freely.

Finally, to ensure that NYSE Regulation can review the trading activities of the integrated proprietary aggregation unit, proposed Rule 98(d)(4) requires member organizations to maintain audit trail information for any trading by such unit, including trading at the Exchange and at other market centers. The NYSE proposes to amend NYSE Rule 132B to have the Order Tracking System (''OTS'') requirements apply to trading by a specialist unit, and if applicable, an integrated proprietary aggregation unit. Member organizations must maintain sufficient records to reconstruct in a time-sequenced manner its trading in securities allocated to the specialist unit and any trading by the integrated proprietary aggregation unit in those securities in other market centers or trading in related products.

As with the approval process under proposed Rule 98(c), to obtain approval to operate a specialist unit within an integrated proprietary aggregation unit, a member organization would need to submit its written policies and procedures to NYSE Regulation for review of whether such policies and procedures are reasonably designed to meet the rule requirements. Once approved under proposed Rule 98(d), NYSE Regulation and FINRA would continue to examine whether a specialist unit's policies and procedures continue to meet the rule requirements and whether the implemented controls and surveillances plans are functioning as designed.

5. Proposed Rule 98(e): Sharing Non-Trading Related Services

One of the restrictions of current Rule 98 is the limit on a specialist member organization and its approved persons to share operational support personnel. In its current form, Rule 98(c) permits dual affiliation only if the specialist member organization and approved person provide the Exchange with a written statement of the duties of such person and why it is necessary for the individual to have a dual affiliation. Any changes to dual affiliations must be submitted to the Exchange for approval in advance of making such change.

The NYSE believes that current Rule 98(c) unnecessarily restricts the ability of a specialist member organization and its approved person to share non-trading related services, *i.e.*, operational support services. Accordingly, the NYSE proposes amending Rule 98 to permit the sharing of non-trading related services, subject to the approval of NYSE Regulation.

As with the approval process to become a specialist unit, the approval process for a specialist unit to share non-trading related services with its parent member organization or approved person would require the specialist unit to: (1) Adopt written policies and procedures governing the sharing or non-trading related services; (2) establish a process for regular review of such written policies and procedures; and (3) implement controls and surveillances reasonably designed to prevent and detect violations of those policies and procedures. In accordance with the purpose of Rule 98, such policies and procedures must be reasonably designed to protect specialist confidential information and non-public order information.

The NYSE understands that personnel or systems that provide non-trading related services may have access to specialist confidential information or non-public order information. For example, clearance and settlement services would have knowledge of specialist positions in securities, and technological support personnel may have knowledge of how a specialist algorithm conducts its trading. However, access to such information should not be the basis for restricting the sharing of such personnel or systems. Rather, such personnel or systems can be shared so long as the specialist unit has controls reasonably designed to ensure that the individuals or systems who have access to specialist confidential information or non-public information neither provide nor make available that information to any

[14] *See, e.g.* , NYSE Rules 70.20(h)(ii), 104(b), 115, and 115A.

[15] The Exchange is engaging in a separate discussion with Commission staff of the Regulation SHO implications of requiring a specialist unit to separately aggregate its trading positions for purposes of Exchange rules.

individuals or systems not part of the specialist unit. In particular, under no circumstances should non-public order information or specialist confidential information be made available to the investment banking, research, or customer-facing departments.

Before a specialist unit can share non-trading related services, NYSE Regulation will review whether the specialist unit has adopted policies and procedures and controls and surveillances reasonably designed to protect specialist confidential information and non-public order information. Once approved, a specialist unit would no longer need to provide NYSE Regulation with a written statement of why a certain individual has a dual affiliation and update such written statements if the individual involved changes. On an ongoing basis, NYSE Regulation and FINRA will examine whether the specialist unit's policies and procedures and controls comply with the requirements of the rule.

6. Proposed Rule 98(f): Risk Management

Specialist member organizations and their approved persons are currently limited in their ability to manage the specialist member organization's trading risks: Rule 98 currently restricts an approved person from being involved in any trading decisions of an associated specialist member organization; Rule 105 currently restricts the specialist member organization's ability to trade in options and single-stock futures related to the securities allocated to the specialist member organization. Together, these restrictions place specialist member organizations at a competitive disadvantage vis-à-vis other market-making or trading firms.

The NYSE believes that the changes to the marketplace that have occurred since 1987, when Rule 98 was adopted, call for an overhaul of how specialist units are permitted to manage their risk. For example, when Rule 98 was adopted, the NYSE enjoyed an approximately 85% market share in trading of NYSE-listed securities and specialists participated in approximately 12% of the transactions at the Exchange. Now, the NYSE's market share for listed securities hovers under 40%, and of that, specialist participation is in the range of two percent. These numbers are telling: Because of automatic executions at the Exchange, specialists no longer have a unique advantage over other market participants. To the contrary, specialists are now at a disadvantage to other market participants because they must meet their affirmative and negative obligations to the Exchange, yet cannot participate in the type of hedging activities that other market participants may and can do.

Accordingly, the Exchange proposes providing specialist units with the ability to manage their risks by broadening the ability to trade in related products and expanding the universe of who may be involved in managing the risk of the specialist unit. Because there is no single correct model for risk management, the NYSE proposes providing specialist units with options of how to manage their risk, which they can choose to use in combination or alone. Regardless of which model a specialist unit proposes to adopt for risk management, at all times, the specialist unit will be ultimately responsible for its quoting or trading decisions at the Exchange.

a. Specialist Unit Risk Management

In order to provide a specialist unit with greater risk management tools, the NYSE proposes permitting specialist units to apply for an exemption from the Rule 105(b)–(d) restrictions on trading options and single-stock futures. In connection with this change, the NYSE proposes amending Rule 105 so that it applies only to a specialist unit, and not to any other departments or units of a member organization or approved person. If approved for an exemption from Rule 105, a specialist unit would be permitted to trade in related products, subject to proposed Rule 98(f)(1).[16]

As proposed, to obtain an exemption from Rule 105, the specialist unit must: (i) Adopt and implement comprehensive written procedures and guidelines governing the conduct of trading in related products; (ii) establish a process for regular review of such written procedures and guidelines; and (iii) implement controls and surveillances reasonably designed to prevent and detect violations of these procedures and guidelines.

These policies and procedures must be reasonably designed to ensure that the individuals or systems responsible for trading related products do not have access to non-public order information, or, unless otherwise specifically provided for, specialist confidential information. In addition, individuals who work on the Floor of the Exchange would not be permitted to trade or direct trading in related products, nor would the specialist API be permitted to make any trading decisions in related products. Accordingly, any trading in related products by the specialist unit must be conducted by an off-Floor, *i.e.,* ''upstairs'' office. All trading in related products must be conducted by individuals who are qualified and registered to trade in the marketplaces where such trading occurs. Moreover, the member organization that houses the specialist unit must be a member of FINRA or other self-regulatory organizations, as required by each marketplace where the specialist unit proposes to trade.

The NYSE believes that a specialist unit should have the flexibility to transfer its employees among different functions within the unit. Accordingly, the proposed rule does not expressly prohibit specialists from trading in related products; it only bars directly entering or executing trades in related products while on the Floor of the Exchange.[17] As proposed, a specialist unit could transfer a specialist back and forth from the Floor of the Exchange to a specialist unit upstairs desk that trades in related products, so long as that specialist is registered and qualified to trade in related products and non-public order information is not used when trading in related products. In such case, however, a specialist unit must have policies and procedures reasonably designed to ensure that a specialist who moves off the Floor of the Exchange does not make available or use any non-public information or, unless otherwise specified, specialist confidential information, to which the specialist may have had access while on the Floor of the Exchange. As noted above, while off the Floor of the Exchange, specialists continue to be subject to other NYSE rules that govern their access to and use of non-public order information.

To ensure that the specialist unit upstairs desk that trades in related products can effectively hedge the specialist unit's positions, the NYSE proposes that the specialist unit upstairs desk have electronic access to the trades by the specialist unit at the Exchange in securities allocated to the specialist unit

[16] The Exchange also proposes amending section (m) of the Rule 105 Guidelines to provide that a specialist unit is not permitted to engage in market-making activities in single-stock futures or options. However, if eligible for an exemption under Rule 105(b)–(d), nothing restricts a specialist unit from having a trading desk that trades in options or single-stock futures. Because an integrated proprietary aggregation unit that includes a specialist unit may engage in options market making, the Exchange proposes eliminating sections (m)(ii) and (iii) of the Rule 105 Guidelines.

[17] The Exchange notes that a specialist unit that has not been approved for an exemption from Rule 105 under proposed Rule 98(f)(1) would still be permitted to enter orders in options or single-stock futures from the Floor, subject to the requirements of Rule 105.

that have been printed to the Consolidated Tape.

Currently, senior managers of specialist member organizations can be privy to information about trading on the Floor of the Exchange as well as any hedging conducted by the specialist member organization, even though such hedging opportunities are limited. For example, currently, a specialist on the Floor can call his or her senior manager to discuss hedging strategies. Under the proposed exemption from Rule 105, the NYSE believes that specialist unit senior managers should be able to continue in that role and provide oversight of both Floor specialist operations and any specialist unit upstairs trading in related products. The NYSE believes that the oversight model that works for larger broker-dealers, whose senior managers have a role with respect to multiple aggregation units, should apply within a specialist unit as well.

Accordingly, the NYSE proposes Rule 98(f)(1)(vi) to address how a senior manager of a specialist unit should handle situations where he or she has access to non-public order information in connection with his or her role as a senior manager. As with proposed Rule 98(c)(2)(E), when trading in related products, the specialist unit must have policies and procedures reasonably designed to ensure that the specialist unit senior manager who has access to non-public order information does not provide such information to the specialist unit upstairs trading desk responsible for trading related products or use such non-public information to directly or indirectly influence trading by that upstairs desk.

b. Integrated Proprietary Aggregation Unit Risk Management

Proposed Rule 98(f)(2) addresses how an integrated proprietary aggregation unit that has been approved pursuant to proposed Rule 98(d) to include a specialist unit could engage in risk management of the specialist unit's positions. At a minimum, an integrated proprietary aggregation unit must have policies and procedures that are reasonably designed to meet the protections enumerated in the rule, including how it trades in related products on behalf of a specialist unit and how it electronically accesses the specialist unit's trades at the Exchange in securities allocated to the specialist unit that have been printed to the Consolidated Tape.

In addition, proposed Rule 98(f)(2)(A)(i) would permit an integrated proprietary aggregation unit to send appetites of trading or quoting direction to the specialist unit. In practice, this would permit a non-specialist unit ''upstairs'' risk management desk that has real-time access both to the specialist unit's positions in securities allocated to it and to the integrated proprietary aggregation unit's positions in related products and other securities to provide electronic direction to the specialist unit of whether to trade or quote in a certain direction. The Exchange believes that permitting an integrated proprietary aggregation unit to send quoting messages that are based on real-time positions of the unit as a whole will enable a specialist unit to better meet any quoting requirements at the Exchange. In other words, the specialist unit will no longer need to operate in a vacuum when determining how or when to quote at the Exchange.

As proposed, the specialist unit would be ultimately responsible for whether to accept the electronic trading direction submitted by the integrated proprietary aggregation unit upstairs desk; a specialist unit must comply at all times with its market-marking obligations, including the specialist rules, notwithstanding any electronic trading directions received from that upstairs desk. Stated otherwise, the specialist unit would operate independently and be free to accept or reject the electronic trading directions sent by the integrated proprietary aggregation unit. However, to the extent an integrated proprietary aggregation unit causes a specialist unit to violate one or more of the specialist rules, the Exchange proposes that in such case, the integrated proprietary aggregation unit should also be held to those standards.

At this time, as noted above, because of access to non-public order information, the NYSE does not believe it would be feasible to permit communications, whether verbal or electronic, from the specialist or the specialist API to the individuals or systems responsible for trading in related products and other securities within the integrated proprietary aggregation unit, or, if applicable, to an upstairs desk within the specialist unit. However, as the NYSE market model evolves, the NYSE will continue to review how best to integrate a specialist unit within an integrated proprietary aggregation unit, including the possibility of fully integrating the trading systems that interact with the Exchange for the specialist unit and the trading systems that trade in related products and other securities. The NYSE believes that ultimately, a competitive trading model would permit full integration, including permitting two-way communications among trading desks.

c. Approved Person Risk Management

As proposed, another option available to firms to manage the risk of the specialist unit is to permit a separate integrated proprietary aggregation unit that is housed in either an approved person or a member organization that runs a specialist unit to provide the same level of risk management as proposed for an integrated proprietary aggregation unit that includes a specialist unit. This option would provide flexibility for broker-dealers that want to keep the specialist unit as a separate member organization or aggregation unit, yet still have an approved person or separate aggregation unit provide risk management services for the specialist unit.

As with proposed Rule 98(f)(2), proposed Rule 98(f)(3) would require that the approved person not have access to either specialist confidential information and non-public order information, except as provided for in that section of the rule. Specifically, an integrated proprietary aggregation unit of an approved person could have access to the trades by a specialist unit at the Exchange in securities allocated to that unit, so long as such trades have been printed to the Consolidated Tape.

And as with proposed Rule 98(f)(2), an approved person could send electronic appetites of how the specialist unit should trade or quote in its allocated securities. As discussed above, a specialist unit would be free to reject or accept such electronic directions as it sees fit to meet its market-making obligations at the Exchange.

The Exchange notes that an approved person that provides risk management under this proposed section may not itself be an NYSE member organization. In such case, the individuals at the approved person responsible for making risk management decisions on behalf of the specialist unit should be dually employed by the specialist unit that is part of an NYSE member organization and the approved person so that they are subject to the jurisdiction of NYSE Regulation.

7. Proposed Rule 98(g): Failure To Maintain Confidentiality, Reporting Obligations, and Breaches

The NYSE proposes to keep certain provisions of current Rule 98, but adjust them to reflect the changes to the rest of the rule. In particular, current Rule 98(i) has been amended and is included in proposed Rule 98(g); current Rule 98(j) has been amended and is included in

proposed Rule 98(h); and, current Rule 98(k) has been amended and is included in proposed Rule 98(i).

Under proposed Rule 98(g), as with the current rule, if a specialist becomes aware of non-public material information from its approved person or parent member organization, such specialist may have to cease acting as a specialist in the security involved, which was formerly referred to as ''giving up the Book.'' The proposed rule does not change how such determinations would be made. However, the proposed rule updates the language of the rule and separates the rule into easier-to-read subsections.

Under proposed Rule 98(h), the NYSE proposes adding to the existing reporting obligations that a specialist unit must report any actual breaches or internal investigations of possible breaches of the information barriers required by the rule. The reporting obligation for internal investigations is intended to be similar in effect to the reporting obligation pursuant to NYSE Rules 351(e) and 342.21. In particular, under proposed Rule 98(h)(4), a specialist unit will be required to conduct an internal investigation into any trading activity that may be a result of a breach of the information barriers required by proposed Rules 98(c), (d), (e), and (f). On a quarterly basis, a specialist unit must report in writing to NYSE Regulation whether it has commenced such an internal investigation, the quarterly progress of any open investigations, what remedial measures, if any, were taken, and the completion of any internal investigation, including the methodology and results of such investigation, any internal disciplinary action taken, and any referral of the matter to the NYSE, another self-regulatory organization, or the Commission.

Finally, as with the current rule, proposed Rule 98(i) provides that any breach of the proposed Rule could result in disciplinary action, including the withdrawal of one or more securities allocated to the specialist unit or withdrawal of approval to operate a specialist unit. The Exchange notes that as with the current rule, any trading by any person while in possession of material, non-public information received as a result of any breach of internal controls required by proposed Rule 98 may violate Rule 10b–5 of the Act,[18] Rule 14e–3 of the Act,[19] NYSE Rule 104, just and equitable principles of trade or one or more provisions of the Act, or regulations thereunder or rules of the Exchange. The Exchange intends to review carefully any such trading of which it becomes aware with a view towards determining whether any such violation has occurred.

C. Proposed Amendments to Related Rules

As noted above, because of the shift in paradigm away from approved persons, the NYSE proposes amending those NYSE rules that refer to approved persons and the need for an exemption from Rule 98.

1. Proposed Amendments to Rule 98A

NYSE Rule 98A requires approved persons to agree in writing not to cause a specialist or odd-lot dealer to violate rules applicable to the specialist or odd-lot dealer. The rule further requires that approved persons report to the Exchange any off-Floor orders for securities in which an associated specialist member organization specializes for any account in which the approved person has a direct or indirect interest.

Because of the proposed changes to Rule 98, and in particular, the recognition that an appropriately walled-off specialist unit ameliorates the need to scrutinize the trading by an approved person, the NYSE proposes eliminating those portions of Rule 98A that concern approved persons. However, the NYSE would keep the limitation on an issuer, or a partner or subsidiary thereof, from becoming an approved person of a specialist unit.

2. Proposed Amendments to Rules 99, 102, 103B, 104, and 113

In their current form, NYSE Rules 99, 103B, 104, and 113 specifically apply to approved persons, unless such approved person has obtained an exemption under Rule 98. To ensure consistency among NYSE rules, and in particular, to ensure that the revised paradigm of proposed Rule 98 is consistently applied, the NYSE proposes to amend Rules 99, 103B, 104, and 113 to eliminate the references to approved persons.[20]

In addition, the Exchange proposes to delete Rule 102, which concerns trading in options by odd-lot dealers. Because the Exchange no longer has separate odd-lot dealers and all specialists are also responsible for odd-lot trading in securities in which they are registered, there is no need for a separate rule governing trading in related products by an odd-lot dealer. Accordingly, because Rule 102 is duplicative of the standards set forth in proposed Rules 98 and 105, the Exchange proposes deleting that rule.

3. Proposed Amendments to Rule 460

In addition to amending Rule 460 to ensure consistent application of proposed Rule 98 and making other non-substantive changes, the NYSE proposes eliminating Rule 460.20 that approved persons of specialist member organizations be held to any limits on beneficial ownership of any equity security in which an associated specialist unit is registered. Instead, as proposed, any limitations on beneficial ownership should apply only to the specialist unit that has been approved pursuant to proposed Rule 98, and not to any other aggregation unit or other department or division of the member organization.

With respect to the specialist unit's beneficial ownership of outstanding shares of securities allocated to such unit, the NYSE proposes to amend NYSE Rule 460.10 to require that a specialist unit report when its beneficial ownership of outstanding shares exceeds 5% and to update such report if the beneficial ownership either falls below 5% or exceeds 10%. The NYSE thus proposes to eliminate the requirement that a specialist unit seek NYSE Regulation approval before it may have more than 10% beneficial ownership of a listed security. The NYSE believes that because of the reduced market share of the NYSE and the limited impact of specialist trading on securities allocated to a specialist unit, the protections of the existing rule are no longer necessary. However, the NYSE proposes retaining the prohibition on a specialist unit having beneficial ownership of more than 25% of the outstanding shares in a security allocated to such unit. Because the changes to the marketplace are in effect now, the Exchange believes that the changes to Rule 460 should be implemented notwithstanding whether a specialist member organization continues to operate under Rule 98 (Former). Accordingly, the Exchange proposes having a single version of Rule 460 to reflect the proposed amendments.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and

[18] *See* 17 CFR Part 240.10b–5.

[19] *See* 17 CFR Part 240.14e–3.

[20] For the period of time that the current Rule 98 stays in the NYSE Rules as ''NYSE Rule 98 (Former),'' each of NYSE Rules 99, 103B, 104, and 113 will have two forms: one to meet the requirements of NYSE Rule 98 (Former) and one to meet the requirements of proposed Rule 98. The version of the rules that relate to Rule 98 (Former) will be similarly designated with the ''(Former'') title either for the entire rule, or for a section of a rule, as appropriate.

furthers the objectives of section 6(b)(5) of the Act,[21] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

II. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2008–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–45. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–45 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15165 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[21] 15 U.S.C. 78f(b)(5).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58039; File No. SR–Phlx–2008–44]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Quarterly Options Series Pilot Program

June 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 19, 2008, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rules 1012 (Series of Options Open for Trading) and 1101A (Terms of Option Contracts), in order to extend for a period of one year an Exchange pilot program (the ''Pilot Program'') to permit the listing and trading of options series that may be opened for trading on any business day and expire at the close of business on the last business day of a calendar quarter (''Quarterly Options'' or ''Quarterly Options Series''). The Pilot Program currently continues through July 10, 2008.[5] The text of the proposed rule change is available on the Exchange's Web site (*http://www.phlx.com/regulatory/reg_rulefilings.aspx.*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 56030 (July 9, 2007), 72 FR 38645 (July 13, 2007) (SR–Phlx–2007–42).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the Pilot Program for a period of one year so that the Exchange may continue to list and trade Quarterly Options within the parameters specified in its Rules 1012 and 1101A. In February 2007, the Commission approved the Pilot Program allowing the listing and trading of Quarterly Options on the Exchange, and thereafter extended the Pilot Program through July 10, 2008.[6] The Exchange is proposing to extend the Pilot Program for one year through July 10, 2009. The Exchange is not proposing any changes to the Pilot Program.[7]

In the Commission Order approving the Pilot Program, the Commission indicated that if the Exchange seeks extension, expansion, or permanent approval of the Pilot Program, it must submit a Pilot Program Report (the ''Report'') that must include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Option Series were opened; (2) an assessment of the appropriateness of the options classes selected for the Phlx Pilot; (3) an assessment of the impact of the Pilot Program on the capacity of Phlx, Options Price Reporting Authority (''OPRA''), and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how Phlx addressed such problems; (5) any complaints that the Phlx received during the operation of the Pilot Program and how the Phlx addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program.[8] In connection with the Pilot Program expansion,[9] the Commission further requested that the Report include analysis of: (1) The impact of the additional series on the Exchange's market and quote capacity, and (2) the implementation and effects of the delisting policy, including the number of series eligible for delisting during the period covered by the report, the number of series actually delisted during that period (pursuant to the delisting policy or otherwise), and documentation of any customer requests to maintain Quarterly Options Series strikes that were otherwise eligible for delisting. The Exchange has submitted, under separate cover, a Report in connection with this filing, which Report seeks confidential treatment under the Freedom of Information Act.

The Report reviews the Exchange's experience with the Pilot Program and clearly supports the Exchange's belief that extension of the Pilot Program is proper. Among other things, the Exchange believes that the Report shows the strength and efficacy of the Pilot Program on the Exchange as reflected by the strong volume of Quarterly Options traded on Phlx since the Pilot Program's inception in February 2007. The Exchange further believes that the Report establishes that the Pilot Program has not created, and in the future should not create, capacity problems for the Exchange or the OPRA system. Moreover, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of Quarterly Options Series.

The Exchange believes that extending the Pilot Program would continue to provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5), specifically,[11] in that it is designed to promote just and equitable principles of trade, to perfect the mechanism of a free and open market and the national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposal would achieve this by allowing continued listing of Quarterly Options, thereby stimulating customer interest in such options and creating greater trading opportunities and flexibility and providing customers with the ability to more closely tailor their investment strategies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest and will promote competition because such waiver will allow Phlx to continue the existing Pilot without interruption.[14] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate

[6] *See* Securities Exchange Act Release Nos. 55301 (February 15, 2007), 72 FR 8238 (February 23, 2007) (SR–Phlx–2007–08) (establishing the Pilot Program) and 56030 (July 9, 2007), 72 FR 38645 (July 13, 2007) (SR–Phlx–2007–42) (extending the Pilot Program).

[7] The Pilot Program was expanded and amended when the Exchange filed a proposed rule change, pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(f)(6) thereunder, to list additional series and implement a delisting policy for outlying series with no open interest. *See* Securities Exchange Act Release No. 57583 (March 31, 2008), 73 FR 18589 (April 4, 2008) (SR–Phlx–2008–23).

[8] *See* Securities Exchange Act Release No. 55301, *supra* note 6.

[9] *See* Securities Exchange Act Release No. 57583, *supra* note 7.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

the 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 No. SR–Phlx–2008–44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2008–44. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2008–44 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15099 Filed 7–2–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58049; File No. SR–Phlx–2008–46]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees for Options on the Full-Size Nasdaq 100 Index and Options on the Mini Nasdaq 100 Index

June 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2008, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member, pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to assess equity option charges, as opposed to index option charges, on: (1) Options on the full value of the Nasdaq 100 Index[5] traded under the symbol NDX (the ''Full-size Nasdaq 100 Index''); and (2) options on the one-tenth of the value of the Nasdaq 100 Index traded under the symbol MNX (the ''Mini Nasdaq 100 Index'') (collectively referred to herein as the ''Nasdaq Index Products'').[6] Therefore, the Exchange proposes to charge the Nasdaq Index Products, which are index options, in a similar manner that it charges for equity options, except that there will be a fee assessed for customer transactions.[7] Specifically, for purposes of the option transaction charge, the Exchange proposes to adopt a specific customer option transaction charge of $0.12 per contract side customer execution transaction fee on the Nasdaq Index Products.

In addition, the Exchange proposes to adopt a $0.10 per contract side license fee on ''firm-related'' comparison and transaction charges for the Nasdaq Index Products.[8] This license fee will be imposed only after the Exchange's $60,000 firm-related equity option and index option comparison and transaction charge cap is reached.[9]

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] NASDAQ®, NASDAQ–100® and NASDAQ–100 Index® are registered trademarks of The NASDAQ OMX Group, Inc. (which with its affiliates are the ''Corporations'') and are licensed for use by the Philadelphia Stock Exchange, Inc. in connection with the trading of options products based on the NASDAQ–100 Index®. The options products have not been passed on by the Corporations as to their legality or suitability. The options products are not issued, endorsed, sold, or promoted by the Corporations. The Corporations make no warranties and bear no liability with respect to the options products.

[6] *See* Securities Exchange Act Release No. 57936 (June 6, 2008), 73 FR 33481 (June 12, 2008) (SR–Phlx–2008–36) (proposed rule change relating to the listing and trading of options on the Nasdaq Index Products).

[7] Phlx has clarified that the index option transaction charge for customer executions, which is currently $0.40 per contract, applies to broker-dealer transactions. Pursuant to this proposed rule change, Phlx has stated that broker-dealer transactions in MNX and MDX index options will be assessed the equity option transaction charges as set forth on the Exchange's current Summary of Equity Option and RUT and RMN Charges fee schedule. Pursuant to that fee schedule, the broker-dealer equity option transaction charges are either $0.45 per contract for AUTOM-delivered orders or $0.25 per contract for non-AUTOM-delivered orders. Email communication to Heather Seidel, Assistant Director, Division of Trading and Markets (''Division''), Commission, and Leah Mesfin, Special Counsel, Division, Commission, from Cynthia Hoekstra, Vice President, Phlx, on June 24, 2008.

[8] Specifically, ''firm-related'' charges include equity option firm/proprietary comparison charges, equity option firm/proprietary transaction charges, equity option firm/proprietary facilitation transaction charges, index option firm (proprietary and customer executions) comparison charges, index option firm/proprietary transaction charges, and index option firm/proprietary facilitation transaction charges (collectively the ''firm-related charges'').

[9] Currently, the Exchange imposes a per contract side license fee for equity option and index option ''firm'' transactions on certain licensed products (collectively ''licensed products'') after the $60,000 cap per member organization on all ''firm-related'' equity option and index option comparison and transaction charges combined is reached Therefore, when a member organization exceeds the $60,000 cap (comprised of firm-related charges), the member organization is charged $60,000, plus the applicable license fee per contract side for any contracts in licensed products (if any) over those that were

In addition, the Exchange proposes to amend its Summary of Equity Option and RUT and RMN Charges to reflect that a $0.10 license fee on the Nasdaq Index Products will be assessed in connection with the Exchange's current cap on Registered Options Traders (''ROT'') comparison charges and ROT and specialist transaction charges [10] on non-AUTOM delivered equity option contracts [11] when an ROT or specialist executes over 14,000 contracts calculated on a daily basis. These terms apply only to transactions when an ROT or specialist is the contra-party to a customer order.[12] Therefore, after the 14,000 non-AUTOM delivered contract level is reached in a specific option, additional comparison and transaction charges are not assessed on subsequent option contracts in excess of 14,000 that are executed on that day in that specific option when the ROT or specialist is the contra-party to a customer order. Even when the 14,000 cap is reached, the license fee will be imposed on applicable ROTs and specialists for equity option transactions on those licensed products that carry a license fee.[13]

This proposal is schedule to become effective for transactions settling on or after June 16, 2008.

The text of the proposed rule change is available at the Exchange's principal office, on the Exchange's Web site at *http://www.phlx.com/regulatory/reg_rulefilings.aspx*, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to assess equity option charges, including payment for order flow charges, on the Nasdaq Index Products that are competitive with charges assessed on these same products by other exchanges.[14]

The purpose of assessing the Nasdaq Index Products a license fee of $0.10 per contract side after reaching the $60,000 cap and the 14,000 cap as described herein is to help defray licensing costs associated with the trading of these products, while still capping member organizations' fees enough to attract volume from other exchanges.[15] The caps operate this way in order to offer an incentive for additional volume without leaving the Exchange with significant out-of-pocket costs. This proposal is scheduled to become effective for transactions settling on or after June 16, 2008.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act [16] in general, and furthers the objectives of Section 6(b)(4) of the Act [17] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members, as all the applicable equity option charges will be assessed on the Nasdaq Index Products. Additionally, assessing customer transaction and license fees on the Nasdaq Index Products, as described herein, should help the Exchange remain competitive by attracting additional order flow to the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change is establishing or changing a due, fee, or other charge applicable only to a member, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [18] and Rule 19b–4(f)(2) thereunder.[19] At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for 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–Phlx–2008–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

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included in reaching the $60,000 cap. Thus, such firm-related charges in the aggregate for one billing month may not exceed $60,000 per month per member organization. For a complete list of the licensed products that are assessed a license fee per contract side after the $60,000 cap is reached, *see* $60,000 ''Firm Related'' Equity Option and Index Option Cap on the Exchange's fee schedule.

[10] The Exchange does not currently assess a comparison charge on specialist transactions. Therefore, the cap applies to ROT comparison and transaction charges combined and separately to specialist transaction charges.

[11] For purposes of this fee, orders delivered via the Floor Broker Management System are deemed to be non-AUTOM delivered orders. *See* Phlx Rule 1063.

[12] *See* Securities Exchange Act Release No. 54659 (October 27, 2006), 71 FR 64603 (November 2, 2006) (SR–Phlx–2006–67) (capping ROT comparison charges and ROT and specialist transaction charges when certain requirements are met).

[13] For a complete list of the licensed products that are currently assessed a license fee per contract side after the 14,000 equity option contract is reached, see $60,000 ''Firm Related'' Equity Option and Index Option Cap on the Exchange's fee schedule.

[14] *See e.g.*, Securities Exchange Act Release Nos. 57052 (December 27, 2007), 73 FR 523 (January 3, 2008) (SR–Amex–2007–140) (assessing license fee of $0.16 per contract side for NDX and MNX options); 51351 (March 9, 2005), 70 FR 12917 (March 16, 2005) (relating to transaction fees and license fees for the Nasdaq Index Products); 57128 (January 10, 2008), 73 FR 2969 (January 16, 2008) (SR–ISE–2008–02) (assessing license fee of $0.16 per contract for trading in options on NDX and MNX); 52983 (December 20, 2005), 70 FR 76475 (December 27, 2005) (SR–ISE–2005–047) (adopting a flat execution fee for public customer orders in ''Premium Products''); 52493 (September 22, 2005), 70 FR 56941 (September 29, 2005) (SR–Amex–2005–087) (certain transaction fees applicable to the Nasdaq Index Products); and 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111) (amending certain public customer fees for other indexes, ETFs and HOLDRs).

[15] *Id.*

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4).

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

All submissions should refer to File Number SR–Phlx–2008–46. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2008–46 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15103 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[20] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2007–0108]

National Task Force To Develop Model Contingency Plans To Deal With Lengthy Airline On-Board Ground Delays

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of meeting of advisory committee.

SUMMARY: This notice announces a meeting of the National Task Force to Develop Model Contingency Plans to Deal with Lengthy Airline On-Board Ground Delays.

DATES: The Task Force meeting is scheduled for July 24, 2008, from 8:30 a.m. to 5 p.m., Eastern Time.

ADDRESSES: The Task Force meeting will be held at the U.S. Department of Transportation (U.S. DOT), 1200 New Jersey Avenue, SE., Washington, DC, in the Oklahoma City Conference Room on the lobby level of the West Building.

FOR FURTHER INFORMATION OR TO CONTACT THE DEPARTMENT CONCERNING THE TASK FORCE: Livaughn Chapman, Jr., or Kathleen Blank-Riether, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Ave., SE., W–96–429, Washington, DC 20590–0001; Phone: (202) 366–9342; Fax: (202) 366–7152; E-mail: *Livaughn.Chapman@dot.gov*, or *Kathleen.Blankriether@dot.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2, and the General Services Administration regulations covering management of Federal advisory committees, 41 CFR Part 102–3, this notice announces a meeting of the National Task Force to Develop Model Contingency Plans to Deal with Lengthy Airline On-Board Ground Delays. The Meeting will be held on July 24, 2008, between 8:30 a.m. and 5 p.m. at the U.S. Department of Transportation (U.S. DOT), 1200 New Jersey Avenue, SE., Washington, DC, in the Oklahoma City Conference Room on the lobby level of the West Building.

DOT's Office of Inspector General recommended, in its audit report, entitled ''Actions Needed to Minimize Long, On-Board Flight Delays,'' issued on September 25, 2007, that the Secretary of Transportation establish a national task force of airlines, airports, and the Federal Aviation Administration (FAA) to coordinate and develop contingency plans to deal with lengthy delays, such as working with carriers and airports to share facilities and make gates available in an emergency. To effectuate this recommendation, on January 3, 2008, the Department, consistent with the requirements of the FACA, established the National Task Force to Develop Model Contingency Plans to Deal with Lengthy Airline On-Board Ground Delays. The first meeting of the Task Force took place on February 26, 2008.

The agenda topics for the July 24, 2008, meeting will include the following: (1) An update by the Contingency Plan Working Group, the working group that is tasked with reviewing existing airline and airport contingency plans for extended tarmac delays for best practices and developing a model contingency plan, on the Working Group's progress; and (2) one or more presentations on recent tarmac delay events and efforts to avoid them.

Attendance is open to the public, and time will be provided for comments by members of the public. Since access to the U.S. DOT headquarters building is controlled for security purposes, any member of the general public who plans to attend this meeting must notify the Department contact noted above ten (10) calendar days prior to the meeting. Attendance will be necessarily limited by the size of the meeting room.

Members of the public may present written comments at any time and, at the discretion of the Chairman and time permitting, oral comments at the meeting. Any oral comments permitted must be limited to agenda items and will be limited to five (5) minutes per person. Members of the public who wish to present oral comments must notify the Department contact noted above via email that they wish to attend and present oral comments at least ten (10) calendar days prior to the meeting. For this July 24, 2008, meeting, no more than one hour will be set aside for oral comments. Although written material may be filed in the docket at any time, comments regarding upcoming meeting topics should be sent to the Task Force docket, (10) calendar days prior to the meeting. Members of the public may also contact the Department contact noted above to be placed on the Task Force mailing list.

Persons with a disability requiring special accommodations, such as an interpreter for the hearing impaired, should contact the Department contact noted above at least seven (7) calendar days prior to the meeting.

Notice of this meeting is provided in accordance with the FACA and the General Service Administration regulations covering management of Federal advisory committees.

Issued on: June 30, 2008.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement & Proceedings, U.S. Department of Transportation.

[FR Doc. E8–15145 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2008–0088]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to renew an information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on March 28, 2008. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 4, 2008.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2008–0088.

FOR FURTHER INFORMATION CONTACT: Mr. Kreig Larson, 202–366–2056, Office of Project Development and Environmental Review, Office of Planning and Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Environmental Streamlining: Measuring the Performance of Stakeholders in the Transportation Project Development Process, Third Survey.

OMB Control Number: 2125–0591.

Background: The U.S. Department of Transportation (DOT), FHWA, has contracted with the Gallup Organization to conduct a survey of professionals associated with transportation and resource agencies in order to gather their views about the workings of the environmental review process for transportation projects and how the process can become more efficient. The purpose of the survey is to: (1) Collect the responses of agency professionals to questions about their involvement in conducting the decision-making processes mandated by the National Environmental Policy Act (NEPA) and other resource protection laws in order to develop benchmark performance measures; and (2) identify where the performance of the process might be improved by the application of techniques for streamlining. This is a survey conducted of only local, state, and federal officials who work with the NEPA process.

Respondents: Approximately 2,000 professionals/officials from transportation and natural resource agencies.

Frequency: This is the third time in seven years that this survey will be conducted.

Estimated Average Burden per Response: Annual Burden Hours: The FHWA estimates that each respondent will complete the survey in approximately 15 minutes. Respondents will have the option of answering the survey's questions either over the telephone or online.

Estimated Total Annual Burden Hours: With a potential total of 2,000 survey respondents, an estimated 500 hours is the total burden.

Electronic Access: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 30, 2008.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E8–15146 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Riverside and Orange Counties, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA, on behalf of the California Department of Transportation (Caltrans), is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed State Route 91 (SR–91) Corridor Improvement Project, in the Counties of Orange and Riverside, California.

FOR FURTHER INFORMATION CONTACT: Russell Williams, Office Chief, California Department of Transportation, Division of Environmental Planning, 464 West 4th Street, 11th Floor, San Bernardino, CA 92401; or call (909) 383–1554.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and Caltrans assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans will prepare an EIS on a proposal to increase capacity within the project segments of the SR–91 (between the State Route 241 and Pierce Street) and the Interstate 15 (between Cajalco Road and Hidden Valley Parkway), in the Counties of Orange and Riverside, California.

The proposed improvements is considered necessary to facilitate movement of people and goods between the Counties of Orange and Riverside, by improving travel conditions for work, recreation, school, commerce, as well as all other trip purposes. Alternatives under consideration include (1) Taking no action; (2) High Occupancy Vehicle (HOV) Lanes; (3) High Occupancy Toll (HOT) Lanes.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. In addition, interested Tribal governments will be involved as determined by the Native American Heritage Commission consultation. Public information meetings will be held to discuss the alternatives and the potential impacts of the proposed action. Public notice will be given of the time and place of the public meetings as well as the public hearings. The draft EIS will be available for public and agency review and comment prior to the first public meeting.

To ensure that the full range of issues related to this proposed action is addressed and that all significant concerns are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to

Caltrans' contact at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 26, 2008.

Nancy Bobb,

Director, State Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. E8–15111 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on December 28, 2007 [72 FR 73972].

DATES: Comments must be submitted on or before August 4, 2008.

FOR FURTHER INFORMATION CONTACT: David Sparks, National Highway Traffic Safety Administration, Office of Odometer Fraud Investigation (NVS–230), 202–366–4761. 1200 New Jersey Avenue, SE., Room W55–318, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: National Highway Traffic Safety Administration

Title: 49 CFR part 580 Odometer Disclosure Statement.

OMB Number: 2127–0047.

Type of Request: Extension of a currently approved collection.

Abstract: The Federal Odometer Law, 49 U.S.C. Chapter 327, and implementing regulations, 49 CFR part 580 require each transferor of a motor vehicle to provide the transferee with a written disclosure of the vehicle's mileage. This disclosure is to be made on the vehicle's title, or in the case of a vehicle that has never been titled, on a separate form. If the title is lost or is held by a lien holder, and where permitted by state law, the disclosure can be made on a state-issued, secure power of attorney.

NHTSA received comments from: South Dakota Department of Revenue & Regulation, Texas Department of Transportation Vehicle Titles and Registration, Virginia Department of Motor Vehicles, and Wisconsin Department of Transportation. Each commenter cites a need for the ability to disclose odometer information electronically in a paperless environment. Texas and Virginia specifically reference a petition filed with NHTSA by the Virginia Department of Motor Vehicles seeking approval of alternate odometer disclosure requirements, to wit, electronic odometer statements. NHTSA has preliminarily granted Virginia's proposed alternate disclosure requirements and is seeking public comments concerning Virginia's proposal via the **Federal Register** through July 24, 2008. NHTSA's initial determination concerning Virginia's petition was published in the **Federal Register** on June 24, 2008 (73 FR 35617–23).

Additionally, Wisconsin suggests eliminating the ten-year exemption for odometer disclosure statements and conversely Virginia supports the ten-year exemption. NHTSA is reviewing the ten-year exemption and may seek comments in a future **Federal Register** notice.

This ICR notice concerns only the information collection requirements under current law, and does not relate to the issues raised by those commenting.

Affected Public: Households, Business, other for-profit, and not-for-profit institutions, Federal Government, and State, Local, or Tribal Government.

Estimated Total Annual Burden: 2,034,910.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on June 27, 2008.

David W. Sparks,

Director, Office of Odometer Fraud Investigation.

[FR Doc. E8–15057 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0048; Notice 2]

Hyundai Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

Hyundai Motor Company (Hyundai), has determined that certain vehicles that it manufactured during the period beginning July 14, 2006 through November 23, 2007, did not fully comply with paragraph S9.5 of 49 CFR 571.225 (Federal Motor Vehicle Safety Standard (FMVSS) No. 225 Child Restraint Anchorage Systems). On November 28, 2007 Hyundai filed an appropriate report pursuant to 49 CFR Part 573, Defect and Noncompliance Responsibility and Reports.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Hyundai has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on March 25, 2008 in the **Federal Register** (73 FR 15835). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/*. Then follow the online search instructions to locate docket number ''NHTSA–2008–0048.''

For further information on this decision, contact Mr. Ed Chan, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 493–0335, facsimile (202) 366–3081.

Affected are approximately 115,000 model years 2007 and 2008 Hyundai Elantra passenger cars produced beginning July 14, 2006 through November 23, 2007.

Paragraph S9.5 of 49 CFR 571.225 requires in pertinent part that:

S9.5 Marking and conspicuity of the lower anchorages. Each vehicle shall comply with S9.5(a) or (b).

(a) Above each bar installed pursuant to S4, the vehicle shall be permanently marked with a circle:

(1) That is not less than 13 mm in diameter;

(2) That is either solid or open, with or without words, symbols or pictograms, provided that if words, symbols or pictograms are used, their meaning is explained to the consumer in writing, such as in the vehicle's owners manual; and

(3) That is located such that its center is on each seat back between 50 and 100 mm above or on the seat cushion 100 (±) 25 mm forward of the intersection of the vertical transverse and horizontal longitudinal planes intersecting at the horizontal centerline of each lower anchorage, as illustrated in Figure 22. The center of the circle must be in the vertical longitudinal plane that passes through the center of the bar (±25 mm).

(4) The circle may be on a tag.

(b) The vehicle shall be configured such that the following is visible: Each of the bars installed pursuant to S4, or a permanently attached guide device for each bar. The bar or guide device must be visible without the compression of the seat cushion or seat back, when the bar or device is viewed, in a vertical longitudinal plane passing through the center of the bar or guide device, along a line making an upward 30 degree angle with a horizontal plane. Seat backs are in the nominal design riding position. The bars may be covered by a removable cap or cover, provided that the cap or cover is permanently marked with words, symbols or pictograms whose meaning is explained to the consumer in written form as part of the owner's manual.

Hyundai described the noncompliance as the failure to provide specific written explanation of the meaning of the pictogram that appears on the lower anchorage identification circles in the owner's manuals provided with the affected vehicles.

Hyundai explained its belief that paragraph S9.5 of FMVSS No. 225 requires that above each child restraint lower anchorage the vehicle shall be permanently marked with: A circle that is not less than 13 mm in diameter, that is either solid or open, with or without words, symbols or pictograms, provided that if words, symbols or pictograms are used, their meaning is explained to the consumer in writing, such as in the vehicle's owner's manual.

Hyundai also explained that the owner's manuals of the affected vehicles contain a section titled ''Child seat lower anchorages'' that provides illustrations indicating the locations of the child restraint lower anchorages and written descriptions of the locations of the child restraint lower anchorages.

Hyundai expressed its belief that the vehicles are properly marked, as required by paragraph S9.5 of FMVSS No. 225, with solid circles to identify the locations of the lower anchorages. Hyundai also stated that those solid circles contain pictograms, which represent a child seated in a child restraint. However, the owner's manuals provided with the affected vehicles do not contain a specific written explanation of the meaning of the pictogram that appears on the identification circles.

Hyundai states that it believes the noncompliance is inconsequential to motor vehicle safety for the following reasons:

(1) When the requirements of paragraph S9.5 were first implemented over 7 years ago, there may have been the potential to misunderstand the newly adopted child restraint lower anchorage identification mark. Therefore, NHTSA decided that a circle must be used, to standardize the symbol used to identify the anchorages, because standardization would likely increase user recognition of the symbol. The standardized circle has now appeared in almost every U.S. vehicle for more than 7 years, allowing the public to gain familiarity with its purpose. In reference to the identification circles, FMVSS 225 No. S9.5(a)(2) states that they may be ''with or without words, symbols or pictograms''. If the identification circle does not contain any pictogram, it does not require a written explanation.

(2) The simple pictogram representing a child seated in a child restraint enhances the identification provided by the circle. The missing written explanation of the meaning of the pictogram does not affect the ability of a person to locate the lower anchorages, aided by the visual indication of the identification circles and the illustrations and written explanations provided in the owner's manual, and does not affect the ability of the lower anchorages to properly secure a child restraint.

In addition, Hyundai stated that even though it will include a written explanation in future printings of the subject owner's manual, it strongly believes that the missing written explanation is an inconsequential noncompliance that poses no threat to the safety of its customers.

Hyundai also states that no customer complaints have been received related to the lack of a written explanation of the meaning of the pictogram or any problems that may have resulted from the lack of a written explanation of the meaning of the pictogram.

Hyundai requested that NHTSA consider its petition and grant an exemption from the recall requirements of the National Traffic and Motor Vehicle Safety Act on the basis that the noncompliance described above is inconsequential as it relates to motor vehicle safety.

NHTSA Decision

NHTSA agrees with Hyundai that the noncompliance is inconsequential to motor vehicle safety.

The pictogram that Hyundai imprinted on the lower anchorage identification circles is designated by the ISO (the International Organization for Standardization), a worldwide federation of national standards bodies, as a ''child seat'' [1] symbol for use in road vehicle controls, indicators and tell-tales.

Although a description of the pictogram in the owner's manual can improve a user's recognition of the purpose for the lower anchorages, we think the risk created by this particular noncompliance is negligible with no impact on child occupant safety.

In consideration of the foregoing, NHTSA has decided that Hyundai has met its burden of persuasion that the labeling noncompliances described are inconsequential to motor vehicle safety. Accordingly, Hyundai's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliances under 49 U.S.C. 30118 and 30120.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 27, 2008.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E8–15130 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2008–0126]

National EMS Advisory Council; Notice of Federal Advisory Committee Meeting

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

ACTION: National EMS Advisory Council; Notice of Federal Advisory Committee Meeting.

[1] ISO 2575: Road vehicles—Symbols for controls, indicators and tell-tales.

SUMMARY: NHTSA announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC) to be held in the Metropolitan Washington, DC area. This notice announces the date, time and location of the meeting, which will be open to the public. The purpose of NEMSAC is to provide a nationally recognized council of emergency medical services representatives and consumers to provide advice and recommendations regarding EMS to the U.S. DOT's National Highway Traffic Safety Administration (NHTSA).

DATES: The meeting will be held on July 17, 2008, from 9 a.m. to 5 p.m. and July 18, 2008, from 9 a.m. to Noon. A public comment period will take place on July 18, 2008, between 10:45 a.m. and 11:15 a.m.

Comment Date: Written comments or requests to make oral presentations must be received by July 10, 2008.

ADDRESSES: The meeting will be held at the Marriott Crystal City at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202. Persons wishing to make an oral presentation or who are unable to attend or speak at the meeting may submit written comments. Written comments and requests to make oral presentations at the meeting should reach Drew Dawson at the address listed below and must be received by July 10, 2008.

All submissions received must include the docket number, NHTSA–2008–0126 and may be submitted by any one of the following methods:

You may submit or retrieve comments online through the Document Management System (DMS) at *http://www.regulations.gov/* under the docket number listed at the beginning of this notice. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help guidelines are available under the help section of the Web site.

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at *http://www.archives.gov* and the Government Printing Office's database at *http://www.access.gpo.gov/nara*.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available.

E-mail: *drew.dawson@dot.gov* or *susan.mchenry@dot.gov*.

Fax: (202) 366–7149.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., NTI–140, Washington, DC 20590, Telephone number (202) 366–9966; E-mail *Drew.Dawson@dot.gov*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*) The NEMSAC will be holding its second meeting on Thursday and Friday, July 17 and 18, 2008, at the Marriott Crystal City at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Agenda of Council Meeting, July 17–18, 2008

The tentative agenda includes the following:

Thursday, July 17, 2008

(1) Opening Remarks and Swearing in of members not in attendance at first meeting;

(2) Introduction of Members and all in attendance;

(3) Review and Approval of Minutes of last meeting;

(4) Discussion of process for prioritizing EMS Issues identified at first meeting;

(5) Voting on priority EMS Issues;

(6) Discussion of potential committees and committee charges.

Friday, July 18, 2008

(1) Welcome and Introductions;

(2) Unfinished Business from July 17th;

(3) Federal Interagency Committee on Emergency Medical Services Report;

(4) New Issues or Concerns;

(5) Public comment period;

(6) Next steps and future meetings.

A public comment period will take place on July 18, 2008, between 10:45 a.m. and 11:15 a.m.

Public Attendance: The meeting is open to the public. Persons with disabilities who require special assistance should advise Drew Dawson of their anticipated special needs as early as possible. Members of the public who wish to make comments on Friday, July 18 between 10:45 a.m. and 11:15 a.m. are requested to register in advance. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 3 minutes. For those wishing to submit written comments, please follow the procedure noted above.

This meeting will be open to the public. Individuals wishing to register must provide their name, affiliation, phone number, and e-mail address to Drew Dawson by e-mail at *drew.dawson@dot.gov* or by telephone at (202) 366–9966 no later than July 10, 2008. There will be limited seating, so please register early. Pre-registration is necessary to enable proper arrangements.

Minutes of the NEMSAC Meeting will be available to the public online through the DOT Document Management System (DMS) at: *http://www.regulations.gov* under the docket number listed at the beginning of this notice.

Issued on: June 27, 2008.

Jeffrey P. Michael,

Acting Associate Administrator for Research and Program Development.

[FR Doc. E8–15056 Filed 7–2–08; 8:45 am]

BILLING CODE 4910–59–P

Corrections

Federal Register
Vol. 73, No. 129
Thursday, July 3, 2008

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[EPA–HQ–OAR–2003–0190; FRL–8545–3]

RIN 2060–AM06

Control of Emissions of Air Pollution From Locomotive Engines and Marine Compression-Ignition Engines Less Than 30 Liters per Cylinder; Republication

Correction

In rule document R8–7999 beginning on page 37096 in the issue of Monday, June 30, 2008, make the following correction:

§ 86.117–96 [Corrected]

On page 37192, in § 86.117–96(d)(2), the equation is being reprinted to read as follows:

$$M_{\mathrm{HC}} = \left(\mathrm{k}V_{\mathrm{n}} \times 10^{-4}\right) \times \left(\frac{\left(C_{\mathrm{HC_f}} - rC_{\mathrm{CH_3OH_f}}\right)P_{\mathrm{B_f}}}{T_{\mathrm{f}}} - \frac{\left(C_{\mathrm{HC_i}} - rC_{\mathrm{CH_3OH_i}}\right)P_{\mathrm{B_i}}}{T_{\mathrm{i}}} \right) + \left(M_{\mathrm{HC,out}} - M_{\mathrm{HC,in}}\right)$$

[FR Doc. Z8–7999 Filed 7–2–08; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
July 3, 2008

Part II

The President

Proclamation 8272—To Modify Duty-Free Treatment Under the Generalized System of Preferences, Take Certain Actions Under the African Growth and Opportunity Act, and for Other Purposes

Federal Register
Vol. 73, No. 129
Thursday, July 3, 2008

Presidential Documents

Title 3—

The President

Proclamation 8272 of June 30, 2008

To Modify Duty-Free Treatment Under the Generalized System of Preferences, Take Certain Actions Under the African Growth and Opportunity Act, and for Other Purposes

By the President of the United States of America

A Proclamation

1. Pursuant to section 503(c)(2)(A) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2463(c)(2)(A)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries or beneficiary sub-Saharan African countries as provided in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the Generalized System of Preferences (GSP) to eligible articles.

2. Pursuant to sections 501 and 503(a)(1)(A) of the 1974 Act (19 U.S.C. 2461 and 2463(a)(1)(A)), the President may designate articles as eligible for preferential tariff treatment under the GSP.

3. Section 503(c)(2)(F)(i) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(i)) provides that the President may disregard the competitive need limitation provided in section 503(c)(2)(A) (i)(II) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed an amount set forth in section 503(c)(2)(F)(ii) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(ii)).

4. Pursuant to section 503(d)(1) of the 1974 Act (19 U.S.C. 2463(d)(1)), the President may waive the application of the competitive need limitations in section 503(c)(2)(A) of the 1974 Act with respect to any eligible article from any beneficiary developing country if certain conditions are met.

5. Pursuant to section 503(d)(5) of the 1974 Act (19 U.S.C. 2463(d)(5)), any waiver granted under section 503(d) shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

6. Section 502(e) of the 1974 Act (19 U.S.C. 2462(e)) provides that the President shall terminate the designation of a country as a beneficiary developing country for purposes of the GSP if the President determines that such country has become a ''high income'' country as defined by the official statistics of the International Bank for Reconstruction and Development. Termination is effective on January 1 of the second year following the year in which such determination is made.

7. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that in 2007 certain beneficiary developing countries have exported certain eligible articles in quantities exceeding the applicable competitive need limitations, and I therefore terminate the duty-free treatment for such articles from such beneficiary developing countries.

8. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act should be disregarded with respect to certain eligible articles from certain beneficiary developing countries.

9. Pursuant to section 503(d)(1) of the 1974 Act, I have received the advice of the United States International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waivers, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2462(c)), and after giving great weight to the considerations in section 503(d)(2) of the 1974 Act (19 U.S.C. 2463(d)(2)), that such waivers are in the national economic interest of the United States. Accordingly, I have determined that the competitive need limitations of section 503(c)(2)(A) of the 1974 Act should be waived with respect to certain eligible articles from certain beneficiary developing countries.

10. Pursuant to section 503(d)(5) of the 1974 Act, I have determined that certain previously granted waivers of the competitive need limitations of section 503(c)(2)(A) of the 1974 Act are no longer warranted due to changed circumstances.

11. Pursuant to section 502(e) of the 1974 Act, I have determined that Trinidad and Tobago has become a ''high income'' country, and I am terminating the designation of that country as a beneficiary developing country for purposes of the GSP, effective January 1, 2010.

12. Section 502(a)(1) of the 1974 Act (19 U.S.C. 2462(a)(1)) authorizes the President to designate countries as beneficiary developing countries for purposes of the GSP. In Proclamation 7912 of June 29, 2005, I designated Serbia and Montenegro as a beneficiary developing country for purposes of the GSP. On June 3, 2006, upon Montenegro's declaration of independence from Serbia and Montenegro, the country separated into two independent republics: the Republic of Serbia and the Republic of Montenegro. Pursuant to section 502 of the 1974 Act, and taking into account the factors set forth in section 502(c) of that Act, I have determined that, in light of the separation of Serbia and Montenegro into two countries, the Republic of Serbia and the Republic of Montenegro should each be designated as a beneficiary developing country for purposes of the GSP.

13. Section 506A(a)(1) of the 1974 Act (19 U.S.C. 2466a(a)(1)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200, 114 Stat. 254) (AGOA), authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a beneficiary sub-Saharan African country if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703) and the eligibility criteria set forth in section 502 of the 1974 Act (19 U.S.C. 2462).

14. Section 104 of the AGOA authorizes the President to designate a country listed in section 107 of the AGOA as an eligible sub-Saharan African country if the President determines that the country meets certain eligibility requirements.

15. Section 112(c) of the AGOA (19 U.S.C. 3721(c)), as added by section 6002(a) of the Africa Investment Incentive Act of 2006 (division D of title VI of Public Law 109–432, 120 Stat. 2922), provides special rules for certain apparel articles imported from lesser developed beneficiary sub-Saharan African countries.

16. Pursuant to section 104 of the AGOA and section 506A(a)(1) of the 1974 Act, I have determined that the Union of the Comoros (Comoros) meets the eligibility requirements set forth or referenced therein, and I have decided to designate Comoros as an eligible sub-Saharan African country and beneficiary sub-Saharan African country.

17. I have further determined that Comoros satisfies the criterion for treatment as a lesser developed beneficiary sub- Saharan African country under section 112(c)(5)(D)(i) of the AGOA.

18. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (the ''Agreement'')

with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. The Congress approved the Agreement in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''CAFTA-DR Act'') (19 U.S.C. 4011).

19. Pursuant to section 403(a) of the CAFTA-DR Act (19 U.S.C. 4111(a)), the President is to report biennially to the Congress on the matters described in that section and, as the President deems appropriate, in section 403(b)(2) of the CAFTA-DR Act (19 U.S.C. 4111(b)(2)).

20. Pursuant to section 403(a)(4) of the CAFTA-DR Act (19 U.S.C. 4111(a)(4)), the President is to establish a mechanism to solicit public comments on the matters described in section 403(a)(3)(D) of the CAFTA-DR Act (19 U.S.C. 4111(a)(3)(D)).

21. In Presidential Proclamation 8213 of December 20, 2007, I modified the Harmonized Tariff Schedule of the United States (HTS) pursuant to section 1634 of the Pension Protection Act of 2006 (Public Law 109–280, 120 Stat. 780) to carry out the understandings described in that section. Technical rectifications to the HTS are required to provide the intended tariff treatment.

22. In Presidential Proclamation 8240 of April 17, 2008, pursuant to section 503(c)(2)(A) of the 1974 Act, I modified the HTS to withdraw duty-free treatment for certain articles from Jamaica. A technical rectification to the HTS is required to provide the intended tariff treatment.

23. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to title V and section 604 of the 1974 Act, section 104 of the AGOA, section 301 of title 3, United States Code (3 U.S.C. 301), and section 403 of the CAFTA-DR Act, do proclaim that:

(1) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of the GSP, general note 4(d) to the HTS is modified as set forth in section A of Annex I to this proclamation.

(2) In order to provide that one or more countries should not be treated as beneficiary developing countries with respect to certain eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as set forth in section B of Annex I to this proclamation.

(3) In order to designate certain articles as eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as set forth in section C of Annex I to this proclamation.

(4) The competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act is disregarded with respect to the eligible articles in the HTS subheadings and to the beneficiary developing countries listed in Annex II to this proclamation.

(5) A waiver of the application of section 503(c)(2)(A) of the 1974 Act shall apply to the eligible articles in the HTS subheadings and to the beneficiary developing countries set forth in Annex III to this proclamation.

(6) The waivers of the application of section 503(c)(2)(A) of the 1974 Act to the articles in the HTS subheadings and to the beneficiary developing countries listed in Annex IV to this proclamation are revoked.

(7) The designation of Trinidad and Tobago as a beneficiary developing country for purposes of the GSP is terminated, effective on January 1, 2010.

(8) In order to reflect this termination in the HTS, general note 4(a) to the HTS is modified by deleting ''Trinidad and Tobago'' from the list of independent countries, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 2010.

(9) The Republic of Serbia is designated as a beneficiary developing country for purposes of the GSP.

(10) In order to reflect this designation in the HTS, general note 4(a) is modified by deleting ''Serbia and Montenegro'' and adding in alphabetical order ''Serbia'' to the list of independent countries, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of this proclamation.

(11) The Republic of Montenegro is designated as a beneficiary developing country for purposes of the GSP.

(12) In order to reflect this designation in the HTS, general note 4(a) is modified by adding in alphabetical order ''Montenegro'' to the list of independent countries, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of this proclamation.

(13) Comoros is designated as an eligible sub-Saharan African country and as a beneficiary sub-Saharan African country for purposes of the AGOA.

(14) In order to reflect this designation in the HTS, general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries ''Union of the Comoros,'' effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008.

(15) For purposes of section 112(c) of the AGOA, Comoros is a lesser developed beneficiary sub-Saharan African country.

(16) The modifications to the HTS set forth in Annexes I and IV to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the respective annex.

(17) The Secretary of Labor, in consultation with the United States Trade Representative, shall carry out the reporting function under sections 403(a) and 403(b)(2) of the CAFTA-DR Act.

(18) The Secretary of Labor, in consultation with the United States Trade Representative, shall solicit public comments under section 403(a)(4) of the CAFTA-DR Act.

(19) In order to provide the intended tariff treatment to certain articles of Jamaica, the HTS is modified as set forth in Annex V to this proclamation.

(20) The modifications to the HTS set forth in Annex V to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date set forth in Annex V.

(21) In order to provide the intended tariff treatment to goods subject to the understandings carried out in Proclamation 8213, the HTS is modified as set forth in Annex VI to this proclamation.

(22) The modifications to the HTS set forth in Annex VI to this proclamation shall enter into effect on the date that the modifications to the HTS set out in section C or D of the Annex to Proclamation 8213, as appropriate, enter into force, and shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after that date.

(23) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

Billing code 3195–W8–P

ANNEX I

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Section A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008, general note 4(d) to the Harmonized Tariff Schedule of the United States (HTS) is modified by:

(1). adding, in numerical sequence, the following subheading numbers and the countries set out opposite such subheading numbers:

0711.20.18	Argentina	1901.20.45	Argentina
0711.90.30	Turkey	2008.30.37	Argentina
0802.50.20	Turkey	2008.99.28	Turkey
0804.20.60	Turkey	3301.24.00	India
0910.99.40	Turkey	3824.90.40	Indonesia
1007.00.00	Argentina	7113.19.29	India
1202.20.40	Argentina	7202.41.00	Kazakhstan
1701.91.10	Philippines	7202.93.80	Brazil
1701.91.80	Brazil	7413.00.50	Turkey
1901.20.05	Turkey	9602.00.50	Colombia

(2). adding, in alphabetical order, the following countries opposite the following subheading numbers:

2306.30.00	Argentina	7901.12.50	Kazakhstan
2401.20.57	India	8544.30.00	Indonesia
7113.19.50	Turkey		

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008, the HTS is modified as provided in this section. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting the symbol "A*" in lieu thereof:

0711.20.18	1701.91.80	7113.19.29
0711.90.30	1901.20.05	7202.41.00
0802.50.20	1901.20.45	7202.93.80
0804.20.60	2008.30.37	7413.00.50
0910.99.40	2008.99.28	9602.00.50
1007.00.00	3301.24.00	
1202.20.40	3824.90.40	
1701.91.10		

Section C. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2008, the HTS is modified as provided in this section. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A+" and inserting the symbol "A" in lieu thereof:

7601.10.30
7601.20.30
7604.21.00

ANNEX II

HTS Subheadings and Countries for Which the Competitive Need Limitation Provided in Section 503(c)(2)(A)(i)(II) Is Disregarded

0410.00.00	Indonesia	2903.69.05	India	4107.91.40	India
0603.13.00	Thailand	2907.29.25	India	4107.92.40	India
0708.10.20	Peru	2908.99.20	India	4202.22.35	India
0710.80.50	Turkey	2909.30.10	India	4202.92.04	Philippines
0711.40.00	India	2909.50.40	Indonesia	4601.22.40	Indonesia
0713.90.60	India	2912.49.10	India	4602.19.05	India
0804.10.60	Pakistan	2913.00.50	India	5208.31.20	India
0810.60.00	Thailand	2914.40.10	Brazil	5208.41.20	India
0813.40.10	Thailand	2918.21.50	Brazil	5208.42.10	India
0813.40.80	Thailand	2921.42.21	India	5209.31.30	India
1601.00.40	Brazil	2921.42.23	India	5209.41.30	India
1604.14.50	Philippines	2921.42.55	India	5209.51.30	India
1701.11.05	Costa Rica	2924.21.50	India	5308.90.10	Brazil
1806.10.43	Venezuela	2926.90.08	India	5311.00.60	India
2001.90.45	India	2927.00.30	India	5607.90.35	Philippines
2008.30.96	Thailand	2930.20.10	India	6304.99.25	India
2008.99.50	Thailand	2932.29.25	India	7113.20.21	Thailand
2516.20.20	India	2934.20.35	India	7202.99.20	Argentina
2603.00.00	Peru	3808.93.20	Indonesia	7403.12.00	India
2827.39.25	India	3808.94.10	Argentina	7407.10.15	Thailand
2827.39.45	India	3824.75.00	Brazil	7801.99.30	Colombia
2827.41.00	India	3824.90.32	Brazil	8102.99.00	Russia
2830.90.20	Russia	4006.10.00	India	8107.90.00	India
2831.90.00	India	4101.20.35	Thailand	8112.12.00	Kazakhstan
2833.29.40	India	4101.90.35	Pakistan	8112.19.00	Kazakhstan
2836.99.40	India	4104.11.40	Argentina	8112.59.00	Russia
2840.11.00	Turkey	4104.19.30	Pakistan	8507.40.40	Philippines
2840.19.00	Turkey	4104.41.40	Argentina	8528.72.16	Thailand
2841.50.10	Colombia	4106.22.00	Pakistan	8528.72.36	Thailand
2841.61.00	India	4107.11.60	Brazil	9027.50.10	Philippines
2843.30.00	Brazil	4107.12.70	Colombia	9603.10.90	Sri Lanka
2903.19.10	India	4107.19.40	India		

ANNEX III

HTS Subheadings and Countries Granted a Waiver of the Application of Section 503(c)(2)(A) of the 1974 Act

2001.10.00	India
4011.10.10	Indonesia
7413.00.50	Turkey

ANNEX IV

HTS Subheadings and Countries for a which a Waiver of the Application of Section 503(c)(2)(A) of the 1974 Act is Revoked

Effective July 1, 2008, the waiver of the application of section 503(c)(2)(A) of the 1974 Act is revoked for the following HTS subheadings and the countries set out opposite such subheadings.

1202.20.40	Argentina
7113.19.29	India
7113.19.50	Turkey
7202.93.80	Brazil

ANNEX V

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after April 17, 2008, the Rates of Duty 1-Special subcolumn for subheading 2202.90.37 is modified by deleting the symbol "A" and by inserting of the symbol"A*" in lieu there.

ANNEX VI

Effective with respect to goods that are entered, or withdrawn from warehouse for consumption, on or after the effective date of sections D and C, respectively, of the Annex to Presidential Proclamation 8213 of December 20, 2007, the Harmonized Tariff Schedule of the United States (HTS) is hereby modified as follows:

1. Subheading 9822.05.05 (as established by section D, item 3 of the Annex to such Proclamation 8213) is deleted and the following new provisions are inserted in numerical sequence in subchapter XXII of chapter 98, with the material inserted in the columns entitled "Heading/Subheading", "Article Description", and "Rates of Duty 1 Special":

	"Apparel goods of chapter 62 for which the treatment provided in U.S. note 21 to this subchapter is appropriate:	
9822.05.11	If entered into the customs territory of the United States in aggregate quantities not to exceed the quantitative limit specified in U.S. note 21(b) to this subchapter	Free (P)
9822.05.13	Goods specified in U.S. note 21(c) to this subchapter	Free (P)"

Conforming change: U.S. note 21(a) (as established by section D, item 2 of the Annex to Proclamation 8213) is modified by deleting "heading 9822.05.05" and by inserting in lieu thereof "subheadings 9822.05.11 and 9822.05.13".

2. The article description of subheading 9822.05.60 (as established by section C of the Annex to Proclamation 8213) is modified by deleting the phrase "(except goods for boys)" and by inserting in lieu thereof "(for goods for boys only)".

[FR Doc. 08–1413
Filed 7–2–08; 10:01 am]
Billing code 7020–02–C

Reader Aids

Federal Register

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Thursday, July 3, 2008

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CORRECTION

In the **List of Public Laws** printed in the *Federal Register* on July 1, 2008, H.R. 2642, Public Law 110–252, was printed incorrectly. It should read as follows:

H.R. 2642/P.L. 110–252

Supplemental Appropriations Act, 2008 (June 30, 2008; 122 Stat. 2323)

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