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Conference Room, Suite 700
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Washington, DC 20002

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Presidential Documents

Title 3—

The President

Proclamation 8279 of August 25, 2008

National Prostate Cancer Awareness Month, 2008

By the President of the United States of America

A Proclamation

National Prostate Cancer Awareness Month is an opportunity to underscore our commitment to fighting prostate cancer and to raise awareness about this highly treatable disease.

Prostate cancer is the second most common type of cancer found in men, and one in six men will develop it during their lifetime. The cause of prostate cancer remains unknown, but early detection can lead to better treatment and increase the chances of survival. It is important for men to talk to their physicians about risk factors, prevention, and preventive screenings.

My Administration remains committed to helping America's dedicated medical professionals learn more about the cause of prostate cancer and develop new and better ways to combat it. Since 2005, the Cancer Genome Atlas has studied the genetic sources of all types of cancer. By supporting medical research, conducting clinical trials, and developing new surgical techniques to help patients recover quickly, the National Institutes of Health, the National Cancer Institute, and the Centers for Disease Control and Prevention are helping lead the fight against prostate cancer.

During National Prostate Cancer Awareness Month, we remember those who lost the battle against prostate cancer, and we pray for their families and friends. We also remember those living with prostate cancer, celebrate the lives of survivors, and thank all the medical professionals who aid in these victories. By continuing our fight against this disease, we will make our Nation a healthier and more hopeful place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2008 as National Prostate Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, and the people of the United States to reaffirm our Nations strong and ongoing commitment to the fight against prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

[FR Doc. E8–20194
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Presidential Documents

Title 3—

The President

Proclamation 8280 of August 25, 2008

Minority Enterprise Development Week, 2008

By the President of the United States of America

A Proclamation

The opportunities of America make our land a beacon of hope for people from every corner of the world. America's minority-owned businesses contribute greatly to our economy and the richness of our country. During Minority Enterprise Development Week, we recognize minority entrepreneurs and recommit ourselves to fostering an environment where everyone can attain the American dream.

In America, people's dreams matter more than their background. Across our country, minority business owners are working hard to achieve their goals and helping to extend the promises of America to their fellow citizens. These businesses and their employees are vital contributors to our national prosperity.

My Administration has lowered taxes, supported pro-growth policies, and enacted an economic stimulus package to encourage small and medium-sized business growth. By keeping more money in the hands of families and small businesses, they can save, invest, spend, and give back to their communities. Our economy is resilient and dynamic because Americans are the most industrious, creative, and enterprising people in the world and because we believe in a free market economy that rewards those qualities.

During Minority Enterprise Development Week, we recognize the value minority entrepreneurs and their employees add to our country. They are vital to our Nation's economic strength and an essential part of our national heritage.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 31 through September 6, 2008, as Minority Enterprise Development Week. I call upon all Americans to celebrate this week with appropriate programs, ceremonies, and activities to recognize the many contributions of our Nation's minority enterprises.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

[FR Doc. E8–20195
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Rules and Regulations

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 AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. FSIS–2008–0027]

RIN 0583–AD38

Mandatory Country of Origin Labeling of Muscle Cuts of Beef (Including Veal), Lamb, Chicken, Goat, and Pork; Ground Beef, Ground Lamb, Ground Chicken, Ground Goat, and Ground Pork

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: FSIS is conforming its regulations to the Agricultural Marketing Service (AMS) regulations, entitled, ''Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng, and Macademia Nuts.'' Therefore, FSIS is amending its regulations to require that a country of origin statement on the label of any meat or poultry product that is a covered commodity, as defined in AMS' interim final regulations (73 FR 45106), and is to be sold by a retailer, as also defined in AMS' interim final regulation, must comply with AMS' interim final regulations. FSIS is also amending its regulations to provide that the addition of country of origin statements on labels of meat or poultry product covered commodities that are to be sold by covered retailers and that comply with the country of origin labeling requirements will be considered to be generically approved. FSIS is not amending its regulations or labeling policies for meat or poultry products that are non-covered commodities. The effective date of AMS' interim final rule for country of origin labeling is September 30, 2008. Therefore, in order to meet the deadline, FSIS is issuing this interim final rule.

DATES: *Effective Date:* This interim final rule is effective September 30, 2008.

Applicability date: The requirements of this rule do not apply to meat or poultry product covered commodities produced or packaged before September 30, 2008.

Comment date: Comments must be submitted on or before September 29, 2008.

ADDRESSES: FSIS invites interested persons to submit comments on this rule. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. FSIS prefers to receive comments through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Food Safety and Inspection Service'' and ''Rules'' from the agency drop-down menu and then click on ''Submit.'' In the Docket ID column, select the FDMS Docket Number 2008–0027 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in *regulations.gov*.
- *Mail, including floppy disks or CD–ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, 1400 Independence Avenue, SW., Room 2534 South Building, Washington, DC 20250.

All submissions received must include the Agency name and docket number FSIS–2008–0027.

All comments submitted in response to this rule will be posted to Agency's Web site at *http://www.fsis.usda.gov/Regulations_&_Policies/2008_Interim_&_Final_Rules_Index/index.asp*. Individuals who do not wish FSIS to post their personal contact information—mailing address, e-mail address, telephone number—on the Internet may leave this information off of their comments. Comments will also be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles Gioglio, Director, Labeling and Program Delivery Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 205–0010.

SUPPLEMENTARY INFORMATION: The Farm Security and Rural Investment Act of 2002, (Section 10816 of Pub. L. 107–171) and the Food, Conservation and Energy Act of 2008 (Section 11002 of Public Law 110–234) amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to require retailers to notify their customers of the country of origin of covered commodities. Under the law, covered commodities include muscle cuts of beef (including veal), lamb, chicken, goat, and pork; ground beef, ground lamb, ground chicken, ground goat, ground pork, as well as other non-meat covered commodities. The law defines ''retailer'' as having the meaning given that term in section 1(b) of the Perishable Agricultural Commodities Act of 1930 (PACA) (7 U.S.C. 499 *et seq.*). In addition, the law states that any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity. The law exempts covered commodities from mandatory country of origin labeling if they are an ingredient in a processed food item. The law also prescribes specific criteria that must be met for a covered commodity to bear a ''United States country of origin'' declaration. Furthermore, the law specifies that the notice of country of origin for ground beef, ground lamb, ground pork, ground goat, and ground chicken shall include a list of all the countries of origin contained therein or reasonably contained therein.

The Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2006 (Pub. L. 109–97) delayed the applicability of mandatory country of origin labeling for all covered commodities except wild and farm-raised fish and shell fish until September 30, 2008.

AMS' interim final regulations on country of origin labeling were published in the **Federal Register** on August 1, 2008 (73 FR 45106). The interim final regulations define the meat

and poultry products that are covered commodities (7 CFR part 65, subpart A). The definitions are consistent with and include references to FSIS' regulations and labeling guidelines. AMS' interim final regulations also define a ''processed food item'' as a retail item derived from a covered commodity that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (7 CFR 65.220). Examples of ''processed food items'' excluded from mandatory country of origin labeling requirements include meatloaf, meatballs, fabricated steak, breaded veal cutlets, corned beef, sausage, breaded chicken tenders, and teriyaki flavored pork loin (73 FR 45107).

In addition, the interim final regulations define the statement, ''United States country of origin,'' for beef, pork, lamb, chicken, and goat (7 CFR 65.260). According to the definition, the statement means the product is (1) from animals born, raised, and slaughtered in the United States; (2) from animals born and raised in Alaska or Hawaii and transported for not more than 60 days through Canada to the United States and slaughtered in the United States; or (3) from animals present in the United States on or before July 15, 2008, that remained continuously in the United States once in the United States (7 CFR 65.260).

Country of origin regulations in 7 CFR 65.300 include requirements for labeling covered commodities of United States origin (7 CFR 65.300(d)), requirements for labeling muscle cut covered commodities of multiple countries of origin that include the United States (7 CFR 65.300(e)), requirements for labeling imported covered commodities (7 CFR 65.300(f)), and requirements for labeling ground beef, ground pork, ground lamb, ground goat, and ground chicken (7 CFR 65.300(h)).

7 CFR 65.400 provides country of origin marking requirements and allows country of origin declarations to be in the form of a placard, sign, label sticker, band, twist tie, pin tag, or other format that allows consumers to identify the country of origin. Finally, 7 CFR 65.500 provides recordkeeping requirements, including the requirement that any person engaged in the business of supplying a covered commodity to a retailer must make available information to the buyer about the countries of origin of the covered commodity.

In the preamble to its interim final rule, AMS stated that it is reasonable to allow time for covered commodities that are already in the chain of commerce and for which no origin information is known or been provided to clear the system. Therefore, the requirements in AMS' interim final rule do not apply to covered commodities produced or packed before September 30, 2008 (73 FR 45107).

Changes to Federal Meat and Poultry Products Regulations

To conform its regulations to AMS' interim final regulations, FSIS is amending 9 CFR 317.8(b) and 381.129 to require that a country of origin statement on the label of a meat or poultry product that is a ''covered commodity'' as defined in 7 CFR Part 65, Subpart A, that is to be sold by a ''retailer,'' as defined in 7 CFR 65.240, comply with the country of origin notification and markings requirements in 7 CFR 65.300 and 65.400.

FSIS is also amending its generic approval labeling regulations (9 CFR 317.5 and 381.133) to specify that the addition of country of origin statements on the labels of meat or poultry product covered commodities that are to be sold by retailers and that comply with country of origin labeling requirements will be considered to be generically approved. FSIS is providing that such country of origin statements will be generically approved to facilitate implementation of country of origin labeling and to meet the September 30, 2008, implementation date. Under the Federal meat and poultry products inspection regulations, country of origin statements on non-covered meat or poultry products generally are not generically approved labeling.

The Federal meat and poultry product inspection regulations require country of origin statements on the immediate containers of imported products (9 CFR 327.14 and 381.205). These regulations require that the country of origin statement be immediately under the name or descriptive designation of the product. AMS' interim final regulations do not affect these requirements.

Because FSIS is conforming its regulations to AMS' regulations, FSIS' interim final regulations do not apply to meat or poultry product covered commodities produced or packaged before September 30, 2008.

Pursuant to 5 U.S.C. 553, the Administrator has found and determined that it is impractical, unnecessary, and contrary to the public interest to provide an opportunity to comment prior to putting this rule into effect. This action is authorized under the Federal Meat Inspection Act and the Poultry Products Inspection Act and is consistent with the Agriculture Marketing Act. Because of the short time between the passage of Public Law 110–234 and the effective date of AMS' country of origin labeling provisions, it is impracticable to provide for notice and comment prior to putting this rule into effect. Because it is important that AMS and FSIS have consistent regulations on September 30, 2008, it would be contrary to the public interest not to make this interim final rule effective simultaneously with AMS' interim rule. Interested persons have 30 days from the date of publication of this interim final rule to comment on it.

Executive Order 12988

This interim final rule has been reviewed under the Executive Order 12988, Civil Justice Reform. Under this interim final rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 12866 and the Regulatory Flexibility Act

This interim final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB). All costs and benefits associated with this rule are accounted for in AMS' interim final rule economic analysis (see 73 FR 45126).

Effect on Small Entities

AMS' interim final rule includes an interim final regulatory flexibility analysis (73 FR 45140). AMS believes that its interim final regulations will have a significant economic impact on a substantial number of small entities. FSIS' conforming regulations will not have any additional impact on small entities.

Paperwork Reduction Act

AMS' interim final rule includes an estimate of the annual recordkeeping burden associated with country of origin labeling requirements (73 FR 45143). FSIS' interim final rule has been reviewed under the Paperwork Reduction Act and imposes no additional paperwork or recordkeeping requirements.

Government Paperwork Elimination Act (GPEA)

FSIS is committed to compliance with the GPEA, which requires Government

agencies, in general, to provide the public the option of communicating electronically with the government to the maximum extent possible. The Agency will ensure that all forms used by the establishments are made available electronically.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/Regulations_&_Policies/2008_Interim_&_Final_Rules_Index/index.asp.* FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 381

Food labeling, Poultry and poultry products.

■ For the reasons discussed in the preamble, FSIS is amending 9 CFR Chapter III as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

■ 1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 2. Section 317.5(b) is amended as follows:

■ a. In paragraph (b)(1) after ''geographical origin claims'' add the following parenthetical phrase: ''(except as provided by paragraph (b)(9)(xxv) of this section),''

■ b. In paragraph (b)(2) after ''geographical origin claims'' add the following parenthetical phrase: ''(except as provided by paragraph (b)(9)(xxv) of this section),''

■ c. A new paragraph (b)(9)(xxv) is added to read as follows:

§ 317.5 Generically approved labeling.

* * * * *

(b) * * *

(9) * * *

(xxv) A country of origin statement on any product label described in § 317.8(b)(40) that complies with the requirements in that paragraph.

■ 3. In § 317.8, a new paragraph (b)(40) is added to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(40) A country of origin statement on the label of any meat ''covered commodity'' as defined in 7 CFR Part 65, Subpart A, that is to be sold by a ''retailer,'' as defined in 7 CFR 65.240, must comply with the requirements in 7 CFR 65.300 and 65.400.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 4. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

■ 5. In § 381.129, a new paragraph (f) is added to read as follows:

§ 381.129 False or misleading labeling or containers.

* * * * *

(f) A country of origin statement on the label of any poultry product ''covered commodity'' as defined in 7 CFR Part 65, Subpart A, that is to be sold by a ''retailer,'' as defined in 7 CFR 65.240, must comply with the requirements in 7 CFR 65.300 and 65.400.

■ 6. § 381.133(b) is amended as follows:

■ a. In paragraph (b)(1) after ''geographical origin claims'' add the following parenthetical phrase: ''(except as provided by paragraph (b)(9)(xxviii) of this section),''

■ b. In paragraph (b)(2) after ''geographical origin claims'' add the following parenthetical phrase: ''(except as provided by paragraph (b)(9)(xxviii) of this section),''

■ c. A new paragraph (b)(9)(xxviii) is added to read as follows:

§ 381.133 Generically approved labeling.

* * * * *

(b) * * *

(9) * * *

(xxviii) A country of origin statement on any product label described in § 381.129(f) that complies with the requirements in that paragraph.

Done in Washington, DC, on August 22, 2008.

Alfred V. Almanza,

Administrator.

[FR Doc. E8–19882 Filed 8–27–08; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0523; Directorate Identifier 2008–NM–049–AD; Amendment 39–15648; AD 2008–17–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707 Airplanes, and Model 720 and 720B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 707 airplanes, and Model 720 and 720B series airplanes. This AD requires repetitive detailed inspections to detect cracks and corrosion on any existing repairs and at certain body stations of the visible surfaces of the wing to body terminal fittings including the web, flanges, and ribs; and applicable related investigative and corrective actions. This AD results from reports of cracks found in the wing to body terminal fittings during routine inspections. We are issuing this AD to prevent cracks and corrosion in the body terminal fittings, which could cause loss of support for the wing and could adversely affect the structural integrity of the airplane.

DATES: This AD is effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 2, 2008.

ADDRESSES: For service information identified in this AD, contact Boeing

Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 707 airplanes, and Model 720 and 720B series airplanes. That NPRM was published in the **Federal Register** on May 8, 2008 (73 FR 26043). That NPRM proposed to require repetitive detailed inspections to detect cracks and corrosion on any existing repairs and at certain body stations of the visible surfaces of the wing to body terminal fittings including the web, flanges, and ribs; and applicable related investigative and corrective actions.

Comments

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

Conclusion

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

Costs of Compliance

We estimate that this AD affects 5 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspections	20	$80	$1,600, per inspection cycle	5	$8,000, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–17–10 Boeing: Amendment 39–15648. Docket No. FAA–2008–0523; Directorate Identifier 2008–NM–049–AD.

Effective Date

(a) This airworthiness directive (AD) is effective October 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model 707–100 long body, –200, –100B long body, and –100B short body series airplanes; Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes, certificated in any category; as identified in Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007.

Unsafe Condition

(d) This AD results from reports of cracks found in the wing to body terminal fittings during routine inspections. We are issuing this AD to prevent cracks and corrosion in the body terminal fittings, which could cause loss of support for the wing and could adversely affect the structural integrity of the airplane.

Compliance

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

Inspections and Corrective Actions

(f) Within 24 months after the effective date of this AD, do detailed inspections and applicable related investigative and corrective actions, by accomplishing all the actions specified in the Accomplishment Instructions of Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007, except as provided by paragraph (g) of this AD. Repeat the detailed inspections

thereafter at intervals not to exceed 24 months. Do all applicable related investigative and corrective actions before further flight.

(g) If any crack or corrosion is found during any inspection required by paragraph (f) of this AD, and Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007, specifies to contact Boeing for appropriate action: Before further flight, repair the terminal fittings using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

No Information Submission

(h) Although Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007, specifies to submit information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(j) You must use Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on August 6, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19136 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0223; Directorate Identifier 2007–NM–156–AD; Amendment 39–15652; AD 2008–17–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 727 series airplanes. That AD currently requires repetitive inspections to detect cracks and loose brackets of the elevator rear spar, and corrective actions if necessary. The existing AD also provides for an optional terminating action for the repetitive inspections. This new AD reduces the repetitive intervals of the inspections, mandates the previously optional terminating action for the repetitive inspections, and no longer allows stop-drilling. This AD results from new reports of cracks, elongated fastener holes, and loose fittings of the elevator rear spar. We are issuing this AD to prevent cracking of the elevator rear spar at the tab hinge locations, which could cause excessive freeplay of the elevator control tab and possible tab flutter, and consequent loss of control of the airplane.

DATES: This AD becomes effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of October 2, 2008.

On April 22, 1996 (61 FR 11529, March 21, 1996), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 727–55–0089, dated June 29, 1995.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 96–06–05, amendment 39–9542 (61 FR 11529, March 21, 1996). The existing AD applies to certain Boeing Model 727 series airplanes. That NPRM was published in the **Federal Register** on November 23, 2007 (72 FR 65678). That NPRM proposed to require repetitive inspections to detect cracks and loose brackets of the elevator rear spar, and corrective actions if necessary. The NPRM also proposed to reduce the repetitive intervals of the inspections, mandate the previously optional terminating action for the repetitive inspection, and no longer allow stop-drilling.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been received on the NPRM.

Request To Extend Compliance Time for Terminating Action (Spar Replacement)

Several commenters (Boeing, Champion Air, DHL, FedEx, and ReadyJetGo) request that we extend the compliance time (18 months) for the terminating action specified in the NPRM. Boeing, Champion Air, and ReadyJetGo request an extension from 18 months to 24 months; DHL requests 36 months; and FedEx requests 36 months or 3,600 flight hours, whichever

occurs later. The commenters request the extension for the following reasons:

- The parts supply is limited. Champion Air and FedEx note that Boeing does not have any complete kits available. Boeing estimates it will not have any complete kits available until October 1, 2008.
- An extension of the compliance time would permit the spar replacement to be done during most operators' scheduled C-check maintenance intervals, and at a maintenance facility (FedEx), which is preferred due to the work-hours and skills involved with the modification.
- The number of cracks found during accomplishment of inspections required by AD 96–06–05 is low. Champion Air notes it has had zero findings from 89 inspections. DHL reports 3 findings. FedEx has documented 7 findings from 991 inspections.
- The repair of stop-drilled cracks in combination with the current inspections will maintain fleet safety during this extended time period.

We partially agree with the commenters' request to extend the compliance time for the terminating replacement. We have determined that 24 months for the spar replacement will not adversely affect safety. However, in considering the other factors to extend the compliance time (data submitted, maintenance schedule differences, stop-drilling as a suggested repair method), we found that those factors were not sufficient to extend the compliance time further.

In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required action within a period of time that corresponds to the normal scheduled maintenance for most affected operators. We have confirmed with Boeing that there is a parts supply problem. We have determined that we will extend the compliance time for the spar replacement from 18 to 24 months as recommended by the manufacturer due to the parts supply problem. We have revised paragraph (q) of this AD accordingly.

Request To Change From Calendar-Based to Use-Based Compliance Time for Terminating Replacement

Champion Air notes that in the ''Differences Between the Proposed AD and Service Information'' section in the NPRM, we stated that a calendar time is not appropriate for addressing problems associated with fatigue. However, for the terminating replacement, the NPRM specifies a compliance time in terms of months instead of hours or cycles.

We understand the comment and while Champion Air does not request a specific change, we consider that clarification is appropriate. While most initial and all repeat inspection times specified in this AD are given in flight hours because the inspections are intended to find problems associated with fatigue issues, the terminating action (replacement) is intended to ensure that there is not an undue reliance on inspections to maintain the safety of the fleet and to ensure that the terminating action is accomplished within an appropriate time period. We have not changed the AD in this regard.

Request To Lengthen Inspection Intervals

DHL requests that we lengthen the repetitive inspection interval from 1,600 flight hours to 2,400 flight hours so that the intervals match the heavy maintenance intervals in their approved maintenance program.

We do not agree with the commenter's request to lengthen the inspection interval. In light of the inspection results, and the analysis and recommendation of the airplane manufacturer, we have determined that 1,600 flight hours is an appropriate repetitive inspection interval. However, according to the provisions of paragraph (s) of this AD, we might approve requests to adjust the compliance time if the request includes data that prove the new compliance time would provide an acceptable level of safety. We have not changed the AD in this regard.

Request for Further Clarification on Effect of Human Factors on Repetitive Inspections

FedEx requests further clarification of why the repetitive inspections required by AD 96–06–05 are no longer considered adequate. Such information could be used to better evaluate FedEx's current maintenance program. FedEx notes that the NPRM states ''human factors associated with numerous continual inspections'' have led to an emphasis on design change.

As discussed in the ''Actions Since Existing AD Was Issued'' section of the NPRM, which is not repeated in this final rule, we determined that the existing long-term repetitive inspections do not provide an acceptable level of safety. This determination, in part, is based on a better understanding of the human factors element that errors do occur when associated with numerous continual inspections. This has led us to consider placing less emphasis on inspections and more emphasis on design improvements. Therefore, for consistency with our policy, we have determined that it is necessary to require modifications to adequately address the identified unsafe condition of this AD rather than continued reliance on inspections.

In regard to FedEx's request for further information to assist the evaluation of their maintenance program, we have determined that this request would be best posed to their FAA Principal Maintenance Inspector. We have not changed the AD in this regard.

Conclusion

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

Costs of Compliance

There are about 815 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Detailed Inspection (required by AD 96–06–05).	17	$80	None	$1,360, per inspection cycle.	448	$609,280, per inspection cycle.

ESTIMATED COSTS—Continued

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Terminating action (new action).	416	$80	$14,975	$48,255	448	$21,618,240

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–9542 (61 FR 11529, March 21, 1996) and by adding the following new airworthiness directive (AD):

2008–17–14 Boeing: Amendment 39–15652. Docket No. FAA–2007–0223; Directorate Identifier 2007–NM–156–AD.

Effective Date

(a) This AD becomes effective October 2, 2008.

Affected ADs

(b) This AD supersedes AD 96–06–05.

Applicability

(c) This AD applies to Boeing Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category, as identified in Boeing Service Bulletin 727–55–0089, Revision 1, dated March 2, 2000.

Unsafe Condition

(d) This AD results from new reports of cracks, elongated fastener holes, and loose fittings of the elevator rear spar. We are issuing this AD to prevent cracking of the elevator rear spar at the tab hinge locations, which could cause excessive freeplay of the elevator control tab and possible tab flutter, and consequent loss of control of the airplane.

Compliance

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

Requirements of AD 96–06–05

Repetitive Inspections and Follow-On Actions

(f) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–0085, dated August 31, 1984 (specified as terminating action in AD 84–22–02, amendment 39–4951), has not been accomplished and the repetitive inspections required by AD 84–22–02 have not been initiated: Prior to the accumulation of 8,000 total flight hours since date of manufacture, or within 300 flight hours after April 22, 1996 (the effective date of AD 96–06–05), whichever occurs later, perform a detailed inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Then accomplish the follow-on actions (i.e., repetitive inspections, stop-drilling, modification) in accordance with that service bulletin, at the times specified as follows:

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Note 2: AD 84–22–02 pertains to the one-piece elevator rear spar.

(1) Repeat the detailed inspection thereafter at intervals not to exceed 1,600 flight hours.

(2) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in paragraph (l) of this AD.

Repetitive Inspections and Follow-On Actions

(g) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–0085, dated August 31, 1984 (specified as terminating action in AD 84–22–02), has not been accomplished and the repetitive inspections required by AD 84–22–02 have been initiated: Accomplish either paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) If no crack has been detected as a result of inspections required by AD 84–22–02: Within 1,600 flight hours after the last inspection required by that AD, perform a detailed inspection to detect cracks and loose brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with the Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with that service bulletin, except

as provided by paragraph (o) of this AD, at the times specified as follows:

(i) Repeat the detailed inspection thereafter at intervals not to exceed 1,600 flight hours.

(ii) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in paragraph (l) of this AD.

(2) If any crack has been stop-drilled in accordance with AD 84–22–02, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in paragraph (l) of this AD.

(h) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–0085, dated August 31, 1984 (specified as terminating action in AD 84–22–02, amendment 39–4951), has been accomplished: Within 4,000 flight hours after April 22, 1996, perform a detailed inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspections, stop-drilling, modification) in accordance with that service bulletin, except as provided by paragraph (o) of this AD, at the times specified as follows:

(1) Repeat the detailed inspection thereafter at intervals not to exceed 4,000 flight hours, except as provided by paragraph (n) of this AD.

(2) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in paragraph (l) of this AD.

(i) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–087, dated June 20, 1986 (specified as terminating action in AD 87–24–03, amendment 39–5769), has not been accomplished and the repetitive inspections required by AD 87–24–03 have not been initiated: Accomplish the requirements of paragraph (i)(1) of this AD at the earliest of the times specified in paragraph (i)(2) of this AD.

Note 3: AD 87–24–03 pertains to the two-piece elevator rear spar.

(1) Perform a detailed inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, at the earliest of the times specified in paragraph (i)(2) of this AD, and in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with that service bulletin, at the times specified as follows:

(i) Repeat the detailed inspection thereafter at intervals not to exceed 4,000 flight hours, except as provided by paragraph (n) of this AD.

(ii) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in paragraph (l) of this AD.

(2) Accomplish the initial detailed inspection required by paragraph (i)(1) of this AD at the earliest of the following times:

(i) Prior to the accumulation of 27,000 total flight hours since date of manufacture, or within 4,000 flight hours after December 24, 1987 (the effective date of AD 87–24–03), whichever occurs later; or

(ii) Prior to the accumulation of 12,000 total flight hours since date of manufacture, or within 4,000 flight hours after April 22, 1996, whichever occurs later; or

(iii) Prior to the accumulation of 27,300 total flight hours since date of manufacture, or within 300 flight hours after April 22, 1996, whichever occurs later.

(j) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–087, dated June 20, 1986 (specified as terminating action in AD 87–24–03), has not been accomplished and the repetitive inspections required by AD 87–24–03 have been initiated: Accomplish either paragraph (j)(1) or (j)(2) of this AD, as applicable.

(1) If no crack has been detected as a result of inspections required by AD 87–24–03: Within 4,000 flight hours after the last inspection required by that AD, perform a detailed inspection to detect cracks and loose brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995, except as provided by paragraph (m) of this AD. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with that service bulletin, except as provided by paragraph (o) of this AD, at the times specified as follows:

(i) Repeat the detailed inspection thereafter at intervals not to exceed 4,000 flight hours, except as provided by paragraph (n) of this AD.

(ii) If any crack is detected and stop-drilled as a result of any inspection required by paragraph (j)(1) of this AD, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in paragraph (l) of this AD.

(2) If any crack has been detected and stop-drilled in accordance with AD 87–24–03, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in paragraph (l) of this AD.

(k) For airplanes on which the modification or repair described in Boeing Service Bulletin 727–55–087, dated June 20, 1986 (specified as terminating action in AD 87–24–03), has been accomplished: Within 4,000 flight hours after April 22, 1996, perform a detailed inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplish follow-on actions (i.e., repetitive inspection, stop-drilling, modification) in accordance with the service bulletin, except as provided by paragraph (o) of this AD, at the times specified as follows:

(1) Repeat the detailed inspection thereafter at intervals not to exceed 4,000 flight hours, except as provided by paragraph (n) of this AD.

(2) If any crack is detected and stop-drilled as a result of any inspection required by this paragraph, accomplish the requirements of paragraph (l) of this AD, except as provided by paragraph (o) of this AD, at the times specified in that paragraph.

(l) If any crack is detected and stop-drilled in accordance with paragraph (f)(2), (g)(1)(ii), (g)(2), (h)(2), (i)(1)(ii), (j)(1)(ii), (j)(2), or (k)(2) of this AD, accomplish the following, except as provided by paragraphs (o) and (p) of this AD:

(1) Within 1,600 flight hours after stop-drilling, perform a detailed inspection to detect cracks and loose hinge brackets of the elevator rear spar in the area along the upper and lower edges at the shear plate, and accomplish follow-on actions (i.e., stop-drilling, modification) in accordance with the service bulletin. If any crack growth is detected after stop-drilling, prior to further flight, modify the elevator rear spar in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

(2) Within 3,200 flight hours after stop-drilling, modify the elevator rear spar in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 727–55–0089, dated June 29, 1995. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

New Actions Required by This AD

New Service Information

(m) As of the effective date of this AD, use only the Accomplishment Instructions of Boeing Service Bulletin 727–55–0089, Revision 1, dated March 2, 2000, to do the repetitive detailed inspections required by this AD.

Certain Repetitive Inspections at Reduced Intervals

(n) For airplanes being inspected at intervals not to exceed 4,000 flight hours in accordance with paragraphs (h)(1), (i)(1)(i), (j)(1)(i), and (k)(1) of this AD: As of the effective date of this AD, do those inspections within 1,600 flight hours since the last detailed inspection or 6 months after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,600 flight hours.

Stop-Drilling Prohibited

(o) As of the effective date of this AD, stop-drilling required by paragraphs (f) through (l) inclusive of this AD is prohibited.

Replacement of Cracked Rear Spars/Loose Brackets

(p) As of the effective date of this AD, if any cracked rear spar or loose bracket is detected during any inspection required by this AD, before further flight, do the replacement specified in paragraph (q) of this AD.

Terminating Replacement

(q) Within 24 months after the effective date of this AD, replace the elevator rear spar with a new elevator rear spar and support fittings, in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 727–55–0089, Revision 1, dated March 2, 2000. Accomplishing the replacement constitutes terminating action for the requirements of this AD.

(r) Accomplishing the replacement before the effective date of this AD in accordance with Boeing Service Bulletin 727–55–0089, dated June 29, 1995, is considered acceptable for compliance with the corresponding action specified in paragraph (q) of this AD.

Alternative Methods of Compliance (AMOCs)

(s)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 96–06–05 are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(t) You must use Boeing Service Bulletin 727–55–0089, dated June 29, 1995; or Boeing Service Bulletin 727–55–0089, Revision 1, dated March 2, 2000; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 727–55–0089, Revision 1, dated March 2, 2000, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On April 22, 1996 (61 FR 11529, March 21, 1996), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 727–55–0089, dated June 29, 1995.

(3) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 7, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19137 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0046; Directorate Identifier 2007–NM–270–AD; Amendment 39–15650; AD 2008–17–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes Equipped With Certain Northrop Grumman (Formerly Litton) Air Data Inertial Reference Units

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Airbus Model A319, A320, and A321 series airplanes equipped with certain Litton air data inertial reference units (ADIRUs). That AD currently requires modifying the shelf (floor panel) above ADIRU 3, modifying the polycarbonate guard that covers the ADIRUs for certain airplanes, and modifying the ladder located in the avionics compartment for certain airplanes. This new AD requires those modifications on additional airplanes. This new AD also requires replacing all three ADIRUs with improved ADIRUs. This new AD also adds Model A318 series airplanes to the applicability. This AD results from reports that ''NAV IR FAULT'' messages have occurred during takeoff due to failure of an ADIRU and subsequent analysis showing that the shelf modification has not sufficiently addressed failure of an ADIRU. We are issuing this AD to prevent failure of an ADIRU during flight, which could result in loss of one source of critical attitude and airspeed data and reduce the ability of the flightcrew to control the airplane.

DATES: This AD becomes effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of October 2, 2008.

On January 27, 2004 (68 FR 74172, December 23, 2003), the Director of the Federal Register approved the incorporation by reference of a certain publication.

ADDRESSES: For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2003–26–03, amendment 39–13399 (68 FR 74172, December 23, 2003). The existing AD applies to certain Airbus Model A319, A320, and A321 series airplanes equipped with certain Litton air data inertial reference units (ADIRUs). That NPRM was published in the **Federal Register** on January 24, 2008 (73 FR 4129). That NPRM proposed to continue to require modifying the shelf (floor panel) above ADIRU 3, modifying the polycarbonate guard that covers the ADIRUs for certain airplanes, and modifying the ladder located in the avionics compartment for certain airplanes. That NPRM also proposed to require those modifications on additional airplanes. That NPRM also proposed to require replacing all three ADIRUs with improved ADIRUs. That NPRM also proposed to add Model

A318 series airplanes to the applicability.

Actions Since NPRM Was Issued

Airbus has issued Service Bulletin A320–34–1350, Revision 01, dated December 12, 2007. In the NPRM, we referred to the original issue of the service bulletin, dated March 20, 2006, as the appropriate source of service information for replacing the ADIRUs with new, improved ADIRUs. The procedures in Revision 01 of the service bulletin are essentially the same as those in the original issue of the service bulletin. Therefore, we have revised paragraph (h) of this AD to also refer to Revision 01 of the service bulletin.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment that has been received on the NPRM.

Request to Revise the Applicability

Airbus requests that we revise the applicability of the NPRM to also exempt airplanes equipped with three ADIRUs having P/N 465020–0303–0316 on which Airbus Service Bulletin A320–25–1248 has been applied in service.

We agree that this AD does not apply to airplanes equipped with three ADIRUs having P/N 465020–0303–0316 on which Airbus Service Bulletin A320–25–1248 was incorporated in service. We have revised paragraph (c) of this AD accordingly.

Conclusion

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

Costs of Compliance

This AD affects about 658 airplanes of U.S. registry.

The actions that are required by AD 2003–26–03 and retained in this AD take about 4 work hours per airplane, at an average labor rate of $80 per work hour. Required parts cost about $300 per airplane. Based on these figures, the estimated cost of the currently required actions for U.S. operators is $407,960, or $620 per airplane.

The new actions take about 3 work hours per airplane, at an average labor rate of $80 per work hour. The manufacturer states that it will supply the required parts to operators at no cost. Based on these figures, the estimated cost of the new actions specified in this AD for U.S. operators is $157,920, or $240 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13399 (68 FR 74172, December 23, 2003) and by adding the following new airworthiness directive (AD):

2008–17–12 Airbus: Amendment 39–15650. Docket No. FAA–2008–0046; Directorate Identifier 2007–NM–270–AD.

Effective Date

(a) This AD becomes effective October 2, 2008.

Affected ADs

(b) This AD supersedes AD 2003–26–03.

Applicability

(c) This AD applies to Airbus Model A318, A319, A320, and A321 series airplanes, certificated in any category; equipped with at least one Northrop Grumman (formerly Litton) air data inertial reference unit (ADIRU), part number (P/N) 465020–0303–0307, –0308, –0309, –0312, –0314, –0315, or –0316; except airplanes equipped with three ADIRUs having P/N 465020–0303–0316 and on which Airbus Modification 30650 or 30872 has been incorporated in production, or on which Airbus Service Bulletin A320–25–1248 has been applied in service.

Unsafe Condition

(d) This AD results from reports that ''NAV IR FAULT'' messages have occurred during takeoff due to failure of an ADIRU and subsequent analysis showing that the shelf modification has not sufficiently addressed failure of an ADIRU. We are issuing this AD to prevent failure of an ADIRU during flight, which could result in loss of one source of critical attitude and airspeed data and reduce the ability of the flightcrew to control the airplane.

Compliance

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

Restatement of Requirements of AD 2003–26–03

Modification

(f) For Model A319, A320, and A321 series airplanes, equipped with any Litton ADIRU installed in accordance with Airbus Modification 24852, 25108, 25336, 26002, or 28218: Within 2 years after January 27, 2004 (the effective date of AD 2003–26–03), do the modifications specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, as applicable, in accordance with paragraphs A. through D. of the Accomplishment Instructions of Airbus Service Bulletin A320–25–1248, dated February 16, 2001; or Airbus Service Bulletin

A320–25–1248, Revision 01, dated April 16, 2003; as applicable.

(1) For all airplanes: Modify the shelf (floor panel) above ADIRU 3 by installing shims between the shelf and the webs of the shelf support structure.

(2) For airplanes with Airbus Modification 25900P3941 or Airbus Service Bulletin A320–25–1200 accomplished as of January 27, 2004: Modify the polycarbonate guard (umbrella) protecting the ADIRUs by installing shims between the guard and the shelf support structure.

(3) For airplanes with Airbus Modification 23027P2852 or Airbus Service Bulletin A320–52–1038 accomplished as of January 27, 2004: Modify the ladder located in the avionics compartment by machining the slot at the foot of the ladder to increase the depth by 0.236 inch.

New Requirements of This AD

Modification for Certain Airplanes

(g) For all airplanes equipped with any ADIRU installed in accordance with Airbus Modification 31070, 31742, or 35517, except airplanes on which Airbus Modification 30650 or 30872 has been accomplished in production: Within 46 months after the effective date of this AD, modify the ADIRU shelf supports by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–25–1248, Revision 01, dated April 16, 2003.

Replacement of ADIRUs

(h) For all airplanes except those on which Airbus Modification 35517 has been incorporated in production: Within 46 months after the effective date of this AD, replace all three ADIRUs with improved ADIRUs having P/N 465020–0303–0316 in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–34–1350, dated March 20, 2006; or Airbus Service Bulletin A320–34–1350, Revision 01, dated December 12, 2007.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(j) European Aviation Safety Agency airworthiness directive 2007–0217, dated August 9, 2007, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use service information identified in Table 1 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 1—ALL MATERIAL INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
Airbus Service Bulletin A320–25–1248	Original	February 16, 2001.
Airbus Service Bulletin A320–25–1248	01	April 16, 2003.
Airbus Service Bulletin A320–34–1350	Original	March 20, 2006.
Airbus Service Bulletin A320–34–1350	01	December 12, 2007.

(1) The Director of the Federal Register approved the incorporation by reference of the documents identified in Table 2 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 2—NEW MATERIAL INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
Airbus Service Bulletin A320–25–1248	01	April 16, 2003.
Airbus Service Bulletin A320–34–1350	Original	March 20, 2006.
Airbus Service Bulletin A320–34–1350	01	December 12, 2007.

(2) On January 27, 2004 (68 FR 74172, December 23, 2003), the Director of the Federal Register approved the incorporation by reference of Airbus Service Bulletin A320–25–1248, dated February 16, 2001.

(3) Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 6, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19138 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD; Amendment 39–15649; AD 2008–17–11]

RIN 2120–AA64

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

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

ACTION: Final rule.

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

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

An unexpected hardover command may cause a sudden roll, pitch, or yaw movement, which could result in reduced controllability of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 2, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That supplemental NPRM was published in the **Federal Register** on April 11, 2008 (73 FR 19770). That supplemental NPRM proposed to correct an unsafe condition for the specified products. The mandatory continuing airworthiness information (MCAI) for Model ERJ 170 airplanes states:

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

The MCAI for Model ERJ 190 airplanes states:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with EPIC software load versions 4.3, 4.4, 4.5, 4.6, or 4.7. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a hardover command by the autopilot.

An unexpected hardover command may cause a sudden roll, pitch, or yaw movement, which could result in reduced controllability of the airplane. Corrective actions include a functional check of the FGCS channels engagement, installation of an upgrade to the Primus EPIC Field-Loadable Software, and replacement of the actuator input-output processor if necessary. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Request To Extend Compliance Time

EMBRAER and Air Transport Association (ATA), on behalf of one of its members, US Airways, request that we extend the compliance time for installing Primus EPIC Field-Loadable Software Version 19.3 or higher specified in paragraph (f)(2) of the supplemental NPRM from ''within 8 months after the effective date'' to a specific later date. ATA requests the compliance time be extended until April 2009; EMBRAER suggests ''no later than April 30, 2009.'' US Airways states that a future upgrade, EPIC 21.4, is expected in August 2008. US Airways also states that airlines would prefer to wait to install EPIC 21.4 due to problems with EPIC Loads 19.3 and 19.4. EMBRAER states that the Agência Nacional de Aviação Civil (ANAC) will issue new revisions to Brazilian Airworthiness Directives 2006–11–02 and 2006–11–03 to extend the compliance time to April 30, 2009, for installation of EPIC Load 19.3 or 19.4.

We agree to revise the compliance time. ANAC has issued Brazilian Airworthiness Directives 2006–11–02R3 and 2006–11–03R3, both effective June 13, 2008, which revise the compliance time of the previous airworthiness directives. The latest Brazilian airworthiness directives specify a compliance time of no later than April 30, 2009, to install the software. Based on the nature of the software issues and potential for certain caution messages to not be displayed in the event of certain other failures, we have determined that a two-month extension of the compliance time will not have a significant effect on the overall safety risk. We have revised the compliance time for installing the software specified in paragraph (f)(2) of this AD to ''within 10 months after the effective date of the AD.'' The 10-month compliance time is based on the calendar date specified in the Brazilian airworthiness directives and approximates the elapsed time between the issuance of this AD and April 30, 2009.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 98 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $15,680, or $160 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–17–11 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–15649. Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 2, 2008.

Affected ADs

(b) None.

Applicability

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

Subject

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

Reason

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

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

The MCAI for Model ERJ 190 airplanes states:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with EPIC software load versions 4.3, 4.4, 4.5, 4.6, or 4.7. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a hardover command by the autopilot.

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

Actions and Compliance

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

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

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

(2) Within 10 months after the effective date of this AD, install Primus EPIC Field-Loadable Software Version 19.3 or higher, in accordance with EMBRAER Service Bulletin 170–31–0019, Revision 01, dated June 25, 2007; or Service Bulletin 190–31–0009, Revision 02, dated June 29, 2007; as applicable. Doing this installation ends the repetitive functional checks required by paragraph (f)(1) of this AD.

(3) Any functional check done before the effective date of this AD in accordance with EMBRAER Service Bulletin 170–22–0003 or 190–22–0002, both dated November 9, 2006, as applicable, is considered acceptable for compliance with the requirements of paragraph (f)(1) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to

which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2006–11–02R3 and 2006–11–03R3, both effective June 13, 2008; EMBRAER Service Bulletins 170–22–0003 and 190–22–0002, both Revision 01, both dated November 5, 2007; EMBRAER Service Bulletin 170–31–0019, Revision 01, dated June 25, 2007; and EMBRAER Service Bulletin 190–31–0009, Revision 02, dated June 29, 2007; for related information.

Material Incorporated by Reference

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

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

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

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

TABLE 1—MATERIAL INCORPORATED BY REFERENCE

EMBRAER Service Bulletin—	Revision—	Dated—
170–22–0003.	01	November 5, 2007.
170–31–0019.	01	June 25, 2007.
190–22–0002.	01	November 5, 2007.
190–31–0009.	02	June 29, 2007.

Issued in Renton, Washington, on August 6, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19143 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0621; Directorate Identifier 2008–NM–015–AD; Amendment 39–15653; AD 2008–17–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –800, and –900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –800, and –900 series airplanes. This AD requires installing hot short protector (HSP) support brackets and equipment for the fuel quantity indicating system (FQIS) fuel densitometer and other specified actions as applicable. This AD also requires revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28–AWL–07. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the center tank fuel densitometer from overheating and becoming a potential ignition source inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a center fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 2, 2008.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6482; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 737–600, –700, –800, and –900 series airplanes. That NPRM was published in the **Federal Register** on June 9, 2008 (73 FR 32491). That NPRM proposed to require installing hot short protector (HSP) support brackets and equipment for the fuel quantity indicating system (FQIS) fuel densitometer and other specified actions as applicable. That NPRM proposed to also require revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28–AWL–07.

Comments

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

Change to Final Rule Regarding Later Revisions of Service Information

We removed all references to the use of ''later revisions'' of the applicable service information from this AD to be consistent with FAA and Office of the **Federal Register** policies. We may consider approving the use of later revisions of the service information as an alternative method of compliance with this AD, as provided by paragraph (k) of this AD.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously. We also determined that this change will not increase the economic burden

on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 13 airplanes of U.S. registry. The following table provides the estimated costs, at an average labor rate of $80 per work hour, for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Installation of HSP support brackets and equipment.	Up to 16	Up to $14,698	Up to $15,978	13	Up to $207,714
AWLs revision	1	None	$80	13	$1,040

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–17–15 Boeing: Amendment 39–15653. Docket No. FAA–2008–0621; Directorate Identifier 2008–NM–015–AD.

Effective Date

(a) This airworthiness directive (AD) is effective October 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –800, and –900 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737–28A1221, Revision 1, dated November 9, 2007.

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

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the center tank fuel densitometer from overheating and becoming a potential ignition source inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a center fuel tank explosion and consequent loss of the airplane.

Compliance

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

Installation of the Hot Short Protector (HSP)

(f) Within 60 months after the effective date of this AD, install the HSP support brackets and equipment for the fuel quantity indicating system (FQIS) fuel densitometer and do all the other specified actions as applicable, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1221, Revision 1, dated November 9, 2007.

Airworthiness Limitations (AWLs) Revision for AWL No. 28–AWL–07

(g) Concurrently with accomplishing the actions required by paragraph (f) of this AD, revise the AWLs section of the Instructions for Continued Airworthiness (ICA) by incorporating AWL No. 28–AWL–07 of Subsection F, ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs,'' of Section 9 of the Boeing 737–600/700/800/900 Maintenance Planning Data (MPD) Document, D626A001–CMR, Revision March 2007 R2 (hereafter referred to as ''the MPD'').

No Alternative Critical Design Configuration Control Limitations (CDCCLs)

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

Credit for Actions Done According to Previous Issue of Service Bulletin

(i) Actions done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 737–28A1221, dated January 14, 2007, are acceptable for compliance with the requirements of paragraph (f) of this AD.

Terminating Action for AWLs Revision

(j) Incorporating AWL No. 28–AWL–07 into the AWLs section of the ICA in accordance with paragraph (g)(3) of AD 2008–10–10, amendment 39–15516, terminates the action required by paragraph (g) of this AD.

AMOCs

(k)(1) The Manager, Seattle Aircraft Certification Office, FAA, ATTN: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6482; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 737–28A1221, Revision 1, dated November 9, 2007; and Airworthiness Limitation 28–AWL–07 of Section 9 of the Boeing 737–600/700/800/900 Maintenance Planning Data (MPD) Document, D626A001–CMR, Revision March 2007 R2; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Michael J Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19367 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0148; Directorate Identifier 2007–NM–299–AD; Amendment 39–15655; AD 2008–17–17]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 747 airplanes. This AD requires a one-time inspection of certain fuselage skins at section 41 to find any external doublers that cover the inspection areas and to identify the external doublers that end on a stringer and those that do not, and related investigative and corrective actions if necessary. This AD results from reports of cracks found at fastener locations in the fuselage skins at section 41. We are issuing this AD to detect and correct fuselage skin cracks at fastener locations along the skin-to-stringer attachments, which could join together and become large and consequently result in rapid decompression of the cabin.

DATES: This AD is effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 2, 2008.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 747 airplanes. That NPRM was published in the **Federal Register** on February 8, 2008 (73 FR 7486). That NPRM proposed to require a one-time inspection of certain fuselage skins at section 41 to find any external doublers that cover the inspection areas and to identify the external doublers that end on a stringer and those that do not, and related investigative and corrective actions if necessary.

Comments

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

Support for the NPRM

Boeing concurs with the contents of the NPRM.

Request to Either Delay Issuance of the AD or Extend the Compliance Time

Japan Airlines (JAL) requests that we delay issuance of the AD until Boeing has published a revision to Boeing Alert Service Bulletin 747–53A2704, dated October 4, 2007, to extend the compliance time from 16,000 total flight cycles to 25,000 total flight cycles for accomplishing the general visual inspection for external doublers in Areas 2 and 3. If we cannot delay issuance of the AD, then JAL requests that we revise the compliance time accordingly in this AD. JAL states that Boeing has advised that only the inspection of Area 1 must be done before 16,000 total flight cycles, and that Areas 2 and 3 should be inspected together with the high frequency eddy current inspection of the skin-to-stringer attachments before 25,000 total flight cycles. JAL asserts that Boeing will revise the compliance time in the next revision to the service bulletin.

We do not agree to delay issuance of this AD, or to revise the compliance time for inspecting for external doublers in Areas 2 and 3. We have coordinated with Boeing, and Boeing has no plans, at this time, to revise the service bulletin. Boeing also has confirmed that the inspection of Areas 1, 2, and 3 was left at 16,000 total flight cycles for simplicity of the compliance table in the service bulletin. Therefore, we agree that, for Groups 1 through 5 airplanes,

the general visual inspection for external doublers in Areas 2 and 3 may be done before 25,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later. However, due to the unique nature of JAL's request, it would be best to address it using the alternative methods of compliance (AMOC) process, rather than revising this AD. We will consider requests for adjustments to the compliance time, under the provisions of paragraph (h) of this AD, if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed the AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD affects 165 airplanes of U.S. registry. We also estimate that it takes up to 64 work-hours per product to comply with this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $844,800 or $5,120 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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–17–17 Boeing: Amendment 39–15655. Docket No. FAA–2008–0148; Directorate Identifier 2007–NM–299–AD.

Effective Date

(a) This airworthiness directive (AD) is effective October 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of cracks found at fastener locations in the fuselage skins at section 41. We are issuing this AD to detect and correct fuselage skin cracks at fastener locations along the skin-to-stringer attachments, which could join together and become large and consequently result in rapid decompression of the cabin.

Compliance

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

Repetitive Inspections and Related Investigative/Corrective Actions

(f) At the applicable compliance times specified in Tables 1 and 2 of paragraph 1.E. of Boeing Alert Service Bulletin 747–53A2704, dated October 4, 2007: Do a general visual inspection of the fuselage skins at section 41 to find any external doublers that cover the inspection area and to identify the external doublers that end on a stringer in the inspection area and those that do not, and do all the related investigative and corrective actions as applicable, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of the service bulletin, except as provided by paragraph (g) of this AD. Repeat the related investigative actions thereafter at the interval specified in Tables 1 and 2 of the service bulletin, as applicable.

Exceptions to the Service Bulletin

(g) Where Tables 1 and 2 of paragraph 1.E. of Boeing Alert Service Bulletin 747–53A2704, dated October 4, 2007, specify counting the compliance time from '' * * * after the date on this service bulletin,'' this AD requires counting the compliance time from the effective date of this AD. Where Figure 19 of the service bulletin specifies doing a ''detailed visual inspection'' for any crack at fastener holes common to the stringer, this AD requires doing a detailed inspection. In Figure 3 of the service bulletin, also inspect the areas at stringer 5 (S–5) and S–5A between station (STA) 340 and STA 360 (similar to Figure 8 for the right side). In Figure 15 of the service bulletin, also inspect the area at S–14A between STA 200 and STA 220 (similar to Figure 17 for the right side).

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(i) You must use Boeing Alert Service Bulletin 747–53A2704, dated October 4,

2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on August 8, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19378 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27339; Directorate Identifier 2006–NM–280–AD; Amendment 39–15654; AD 2008–17–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10 and DC–10–10F Airplanes, Model DC–10–15 Airplanes, Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) Airplanes, Model DC–10–40 and DC–10–40F Airplanes, Model MD–10–10F and MD–10–30F Airplanes, and Model MD–11 and MD–11F Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain transport category airplanes identified above. This AD requires modifying the fuel boost pumps. This AD results from a fuel boost pump found with blown thermal fuses and a fractured thrust washer. We are issuing this AD to prevent failure of the fuel boost pumps, which could lead to the potential of ignition sources inside fuel tanks. This condition, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of October 2, 2008.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain McDonnell Douglas Model DC–10–10 and DC–10–10F airplanes, Model DC–10–15 airplanes, Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes, Model DC–10–40 and DC–10–40F airplanes, Model MD–10–10F and MD–10–30F airplanes, and Model MD–11 and MD–11F airplanes. That supplemental NPRM was published in the **Federal Register** on March 7, 2008 (73 FR 12301). That supplemental NPRM proposed to require modifying the fuel boost pumps.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Support for the Supplemental NPRM

FedEx agrees with the technical aspects of the supplemental NPRM.

Request to Allow Use of Parts Manufacture Approval (PMA) Parts

Wencor West requests that we revise the supplemental NPRM to allow the use of PMA part numbers (P/Ns) 60–84744WE, 60–06561WE, 60–01317WE, and 60–02927WE as acceptable means of compliance for the replacement of Hydro-Aire fuel boost pumps having P/Ns 60–84744, 60–06561, 60–01317, and 60–02927, respectively. Wencor West states that these PMA parts were developed through the test and computation method governed by section 21.303 (''Replacement and modification parts'') of the Federal Aviation Regulations (14 CFR 21.303) and FAA Order 8110–42B. Wencor West also states that the FAA found the PMA parts to be equal to and interchangeable with the Hydro-Aire parts. In addition, Wencor West requests that we clarify that certain other PMA parts, which may be used when doing further maintenance or overhaul of the pump, continue to be approved as equivalents to the original equipment manufacturer parts.

We disagree with revising this AD. Boeing conducted safety assessments of the fuel tank systems approved by the Los Angeles Aircraft Certification Office (ACO). As a result, we issued AD 2008–06–21, amendment 39–15433 (73 FR 14673, March 19, 2008), to require revising the FAA-approved maintenance program to incorporate new Airworthiness Limitations for the fuel tank systems to satisfy the requirements of Special Federal Aviation Regulation No. 88. That AD, in part, addressed maintenance of the fuel boost pumps. Any deviation from the safety assessment conducted by Boeing, including the use of PMA parts on the fuel boost pumps, must be approved by the Manager, Los Angeles ACO. Consequently, all previously approved PMA parts must be re-evaluated to determine whether an equivalent level of safety for each part meets the approved safety assessment. Therefore, engineering design approval of the PMA parts manufactured by Wencor West must be approved as an alternative method of compliance (AMOC) under the provisions of paragraph (h) of this AD. We will consider requests for approval of an AMOC if sufficient data are submitted to substantiate that the design change would provide an acceptable level of safety. We have not changed the AD in this regard.

Request to Revise Cost of Compliance

FedEx requests that we revise the Costs of Compliance section of the supplemental NPRM to reflect a figure that is more representative of an operator's cost. FedEx points out that Crane Hydro-Aire Service Bulletin 60–847–28–3, dated July 2, 2007, estimates that replacement parts cost $639.64, labor costs $445.50, and removal and installation of the fuel pump cost $107.80. These figures total $1,192.94 per fuel pump. Given that this AD affects about 360 airplanes of U.S. registry equipped with 10 to 19 fuel pumps, FedEx estimates that the total fleet cost is between $4,294,584 and $8,159,709, or between $11,929 and $22,665 per airplane.

FedEx also points out that Crane Hydro-Aire Service Bulletin 60–847–28–3 states that if a pump assembly requires additional repair, then the repair will be quoted separately. FedEx states that it would be unrealistic to think that there will not be repair/overhaul costs associated with this modification. FedEx's experience has shown that about 80 percent of the fuel pumps, removed due to inspection or modification, resulted in repair or overhaul of the pump. FedEx, therefore, estimates that at least 50 percent of the fuel pumps in-service will need to be repaired or overhauled at a cost of $5,000 per pump. FedEx estimates that repair/overhaul will cost at least $9,000,000 (360 airplanes × 5 pumps × $5,000). FedEx states that this cost for repair/overhaul of the fuel pump should also be included in the Costs of Compliance section.

We disagree with revising the Costs of Compliance section. When developing the Costs of Compliance for an AD we take into account the estimated work hours and parts cost provided by the manufacturer. Paragraph 1.G. of Crane Hydro-Aire Service Bulletin 60–847–28–3 estimates that the modification would take about 3 work hours, which we used with our estimated average labor rate of $80 per work hour to determine the total labor costs. The economic analysis, however, is limited only to the cost of actions actually required by the rule. It does not consider the costs of routine maintenance. We have not changed the AD in this regard.

Clarification of AMOC Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

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

Costs of Compliance

There are about 512 airplanes of the affected design in the worldwide fleet. This AD affects about 360 airplanes of U.S. registry. The required modification takes about 3 work hours per fuel boost pump, at an average labor rate of $80 per work hour. Required parts cost about $640 per fuel boost pump. Depending on the airplane configuration, there are between 10 and 19 fuel boost pumps per airplane. Based on these figures, the estimated cost of this AD for U.S. operators is between $3,168,000 and $6,019,200, or between $8,800 and $16,720 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2008–17–16 McDonnell Douglas: Amendment 39–15654. Docket No. FAA–2007–27339; Directorate Identifier 2006–NM–280–AD.

Effective Date

(a) This AD becomes effective October 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) McDonnell Douglas Model DC–10–10 and DC–10–10F airplanes, Model DC–10–15 airplanes, Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes, Model DC–10–40 and DC–10–40F airplanes, and Model MD–10–10F and MD–10–30F airplanes; as identified in Boeing Alert Service Bulletin DC10–28A254, Revision 1, dated September 12, 2007.

(2) McDonnell Douglas Model MD–11 and MD–11F airplanes, as identified in Boeing Alert Service Bulletin MD11–28A134, Revision 1, dated September 6, 2007.

Unsafe Condition

(d) This AD results from a fuel boost pump found with blown thermal fuses and a fractured thrust washer. We are issuing this AD to prevent failure of the fuel boost

pumps, which could lead to the potential of ignition sources inside fuel tanks. This condition, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Service Bulletin Reference Paragraph

(f) The term ''service bulletin,'' as used in this AD, means the following service bulletins, as applicable:

(1) For the airplanes identified in paragraph (c)(1) of this AD, Boeing Alert Service Bulletin DC10–28A254, Revision 1, dated September 12, 2007.

(2) For the airplanes identified in paragraph (c)(2) of this AD, Boeing Alert Service Bulletin MD11–28A134, Revision 1, dated September 6, 2007.

Note 1: Boeing Alert Service Bulletin DC10–28A254, Revision 1, dated September 12, 2007; and Boeing Alert Service Bulletin MD11–28A134, Revision 1, dated September 6, 2007; refer to Crane Hydro-Aire Service Bulletin 60–847–28–3, Revision 1, dated July 2, 2007, as an additional source of service information for accomplishing the modification in paragraph (g) of this AD.

Modification

(g) At the applicable compliance time specified in paragraph (g)(1) or (g)(2) of this AD, modify the fuel boost pumps having part numbers 60–847–1A, –2, or –3, in accordance with the Accomplishment Instructions of the applicable service bulletin.

(1) For fuel boost pumps identified as Configuration 1 or 2 in Table 1 of paragraph 1.E. of the applicable service bulletin, do the modification within 120 months after the effective date of this AD.

(2) For fuel boost pumps identified as Configuration 3 in Table 1 of paragraph 1.E. of the applicable service bulletin, do the modification within 72 months after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(i) You must use Boeing Alert Service Bulletin DC10–28A254, Revision 1, dated September 12, 2007; or Boeing Alert Service Bulletin MD11–28A134, Revision 1, dated September 6, 2007; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

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

Michael J Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19381 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–29361; Airspace Docket 07–AEA–5]

Amendment of Class E Airspace; Factoryville, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Factoryville, PA, to provide additional controlled airspace accommodating a new Runway 4 Standard Instrument Approach Procedure (SIAP) developed for Seamans Field, Factoryville, PA. This action increases the radius of the current Class E airspace and includes airspace on each side of the Lake Henry VORTAC 299° radial extending to the VORTAC.

DATES: 0901 UTC, November 25, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

History

On January 31, 2008, the FAA published in the **Federal Register** a Notice of Proposed Rulemaking to amend Title 14 of the Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace at Factoryville, PA (73 FR 5778). The proposed action was to accommodate a new SIAP for Runway 4 by expanding the Class E airspace for Seamans Field.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 provides additional controlled airspace to accommodate a new Runway 4 SIAP developed for Seamans Field. This action increases current Class E airspace from a 6.2-mile radius to an 8.2-mile radius of Seamans Field and includes the airspace within 5.3 miles each side of the Lake Henry VORTAC 299° radial extending from the 8.2-mile radius of Seamans Field to the VORTAC. Airspace designations for Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in the

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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E Airspace at Factoryville, PA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; 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 Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

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

* * * * *

AEA PA E5 Factoryville, PA [AMENDED]

Seamans Field, PA
(Lat. 41°35′22″ N., long. 75°45′22″ W.)
Lake Henry VORTAC
(Lat. 41°28′33″ N., long. 75°28′57″ W.)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of Seamans Field and including the airspace within 5.3 miles each side of the Lake Henry VORTAC 299° radial extending from the 8.2-mile radius of Seamans Field to the VORTAC.

* * * * *

Issued in College Park, Georgia, on August 4, 2008.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E8–19569 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0170; Airspace Docket No. 08-AEA–16]

Modification of Class E Airspace; Staunton, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, confirmation of effective date.

SUMMARY: This action confirms the effective date of a direct final rule published in the **Federal Register** (73 FR 16751) that modifies the effective time of the Class E Airspace at Staunton, VA. The Shenandoah Valley Regional Airport Commission has requested to change their current Class E2 Airspace from part time (currently 1200 to 0400 Zulu) to full time. This action enhances the safety and management of Instrument Flight Rule (IFR) operations in the area by providing the required controlled airspace to support terminal operations continuously at Staunton, VA.

DATES: 0901 UTC, Effective June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 305–5610, Fax 404–305–5572.

SUPPLEMENTARY INFORMATION:

The Confirmation of Effective Date

The FAA published this direct final rule with a request for comments in the **Federal Register** on March 31, 2008 (73 FR 16751), Docket No. FAA 2008–0170; Airspace Docket No. 08–AEA–16. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 5, 2008. No adverse comments were received, and thus this notice confirms that effective date.

Issued in College Park, Georgia, on July 16, 2008.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E8–19277 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 105

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

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

AGENCY: United States Coast Guard; DHS.

ACTION: Notice of compliance date, Captain of the Port Zones Baltimore, Delaware Bay, Mobile, Lower Mississippi River, Ohio Valley, Pittsburgh, and San Diego.

SUMMARY: This document informs owners and operators of facilities located within Captain of the Port Zones Baltimore, Delaware Bay, Mobile, Lower Mississippi River, Ohio Valley, Pittsburgh, and San Diego that they must implement access control procedures utilizing TWIC no later than December 30, 2008.

DATES: The compliance date for the TWIC regulations found in 33 CFR part 105 for Captain of the Port Zones Baltimore, Delaware Bay, Mobile, Lower Mississippi River, Ohio Valley, Pittsburgh, and San Diego is December 30, 2008.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this document as being available in the docket, are part of dockets TSA–2006–24191 and USCG–2006–24196, and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington,

DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Regulatory History

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

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

II. Notice of Facility Compliance Date—COTP Zones Baltimore, Delaware Bay, Mobile, Lower Mississippi River, Ohio Valley, Pittsburgh, and San Diego

Title 33 CFR 105.115(e) currently states that ''[f]acility owners and operators must be operating in accordance with the TWIC provisions in this part by the date set by the Coast Guard in a Notice to be published in the **Federal Register**.'' Through this Notice, the Coast Guard informs the owners and operators of facilities subject to 33 CFR 105.115(e) located within COTP Zones Baltimore, Delaware Bay, Mobile, Lower Mississippi River, Ohio Valley, Pittsburgh, and San Diego that the deadline for their compliance with Coast Guard and TSA TWIC requirements is December 30, 2008.

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

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

Dated: August 22, 2008.

Mark P. O'Malley,

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

[FR Doc. E8–19990 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0810]

Drawbridge Operation Regulation; Petaluma River, Petaluma, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the ''D'' Street Drawbridge across the Petaluma River, mile 13.7, at Petaluma, CA. The deviation is necessary to conduct maintenance. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 6 a.m. on September 3, 2008 through 7 p.m. on November 14, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0810 and are available online at *www.regulations.gov.* They are also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516. If you have questions on viewing the docket, call Renee Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The City of Petaluma requested a temporary change to the operation of the ''D'' Street Drawbridge. The ''D'' Street Drawbridge's navigation span provides 7 feet of vertical clearance, at Mean High Water, in the closed-to-navigation position. The drawspan opens on signal if at least 4 hours notice is given for openings from 6 a.m. to 6 p.m., and if at least 24-hours notice is given for openings from 6 p.m. to 6 a.m.

The drawspan will be secured in the closed-to-navigation position, from 6 a.m. on September 3, 2008 through 7 p.m. on November 14, 2008, to allow the City of Petaluma to conduct needed maintenance, which includes; trunion pin replacement, deck resurfacing, and painting of the entire structure. To facilitate the maintenance, the contractor will install scaffolding beneath the bridge deck, reducing the vertical clearance provided for by the bridge in the closed-to-navigation position, by 5 feet.

From September through November, 2005–2007, the drawspan averaged 294 openings for vessels. This temporary deviation has been coordinated with waterway users. There will be no impact to commercial waterway users, no dredging is scheduled during this deviation period, and the City of Petaluma Visitors Bureau has been informing recreational waterway users of the maintenance. No objections to the proposed temporary deviation were raised.

Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time.

In the event of an emergency the drawspan can be opened with 24 days advance notice.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 19, 2008.

P.F. Zukunft,

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

[FR Doc. E8–19991 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 70

RIN 2900–AM02

Beneficiary Travel Under 38 U.S.C. 111 Within the United States; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendment.

SUMMARY: The Department of Veterans Affairs (VA) published a document in the **Federal Register** on June 30, 2008 (73 FR 36796), amending its beneficiary travel regulations that provide a mechanism for payment of travel expenses within the United States under 38 U.S.C. 111 to help veterans and other persons obtain care and services from VA's Veterans Health Administration (VHA). That document contained a typographical error. This document corrects that error.

DATES: *Effective Date:* August 28, 2008.

FOR FURTHER INFORMATION CONTACT: Tony Guagliardo, Chief Business Office (16), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (202) 254–0406. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 30, 2008, VA published a final rule in the **Federal Register** (73 FR 36796) amending its beneficiary travel regulation. The revised regulations, set forth at 38 CFR part 70, provide a mechanism for payment of travel expenses within the United States under 38 U.S.C. 111 to help veterans and other persons obtain care and services from VA's Veterans Health Administration. In making the necessary edits, a word was accidentally omitted in § 70.10(b). This document corrects the error in § 70.10(b) by removing ''care services'' and adding, in its place ''care or services''.

List of Subjects in 38 CFR Part 70

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

William F. Russo,

Director of Regulations Management.

■ For the reason set out in the preamble, VA is correcting 38 CFR part 70 as follows:

PART 70—VHA BENEFICIARY TRAVEL UNDER 38 U.S.C. 111

■ 1. The authority citation for part 70 continues to read as follows:

Authority: 38 U.S.C. 101, 111, 501, 1701, 1714, 1720, 1728, 1782, 1783, E.O 11302.

§ 70.10 [Amended]

■ 2. In § 70.10, paragraph (b) is amended by removing ''care services'' and adding, in its place, ''care or services''.

[FR Doc. E8–19961 Filed 8–27–08; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–0027; FRL–8708–6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Electric Generating Unit Multi-Pollutant Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision establishes limits on the emissions of nitrogen oxides (NO_X) and sulfur dioxide (SO_2) from Delaware's large electric generating units (EGUs). EPA is approving this SIP revision in accordance with the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on September 29, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2007–0027. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 17, 2007 (72 FR 27787), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of Regulation No. 1146—Electric Generating Unit Multi-Pollutant Regulation. The formal SIP revision was submitted by Delaware on November 16, 2006.

II. Summary

Regulation No. 1146 establishes limits on the emissions of NO_X and SO_2 from Delaware's large EGUs. The large EGUs subject to this regulation are Connective Delmarva Generating, Inc.'s Edge Moor Generating Station Units 3, 4 and 5; City of Dover's McKee Run Generating Unit 3; and NRG Energy, Inc.'s Indian Generating Station Units 1, 2, 3 and 4. Other specific requirements of Regulation No. 1146 and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. On June 18, 2007, EPA received comments on its May 17, 2007 NPR. A summary of the comments submitted and EPA's response is provided in Section III of this document.

III. Summary of Public Comments and EPA Responses

Comment: The commenter opposes the approval of Regulation No. 1146 since it may be changed or invalidated in the current pending appeals process.

Response: EPA disagrees with this comment. Regulation No. 1146 was appealed by three regulated entities: City of Dover's McKee Run Generating Station; NRG Energy Inc. (NRG); and Connectiv Delmarva Generating Station (Connective). The City of Dover and NRG appeals have been settled, and only Connective remains. Currently, Regulation No. 1146 is in effect and enforceable in Delaware, and at this time, all covered units, including Connectiv units are in the process of designing and installing emission control equipment to meet the requirements of Regulation No. 1146.

Comment: The commenter states that the SIP should not include requirements of Regulation No. 1146 that are not necessary for attaining compliance with the 8-hour ozone standard. The following are not elements of DNREC's plan to attainment of the 8-hour ozone standard: (1) Annual NO_X emissions caps, and (2) annual SO_2 emissions caps and emission rate limitations.

Response: EPA disagrees with the premise of this comment. The reductions associated with Regulation No. 1146, including the annual NO_X caps and the annual SO_2 caps and emission rate limitations, will support the attainment of the 8-hour ozone and fine particulate matter ($PM_{2.5}$) NAAQS. The emissions reductions also provide necessary support for the 8-hour ozone reasonable further progress plan. Meeting these goals will help clean Delaware's air. In understanding EPA's role with regard to review and approval or disapproval of rules submitted by states as SIP revisions, EPA can only take action upon the final adopted versions of a state's regulation as submitted by that state in its SIP revision request, and must approve a SIP that meets the minimum requirements of the CAA. It is not within EPA's authority, by its rulemaking on the SIP revision or otherwise, to change or modify the text or substantive requirements of a state regulation. Therefore, EPA cannot modify Delaware's regulation as recommended in the comment.

Comment: The commenter states that Regulation No. 1146 overwrites the carefully-balanced provisions of the Clean Air Interstate Rule (CAIR). The units covered by Regulation No. 1146 are subject to CAIR and have already been allocated annual and ozone season NO_X allowances under the CAIR Federal Implementation Plan (FIP) for Delaware. Regulation No. 1146 imposes inconsistent NO_X and SO_2 emission requirements on these same units. Requirements to comply with these additional state regulations are unnecessary and unduly burdensome for affected owners.

Response: EPA disagrees with this comment. Regulation No. 1146 is not intended to replace the Federal CAIR requirements and does not relieve affected sources from participating in and complying with any CAIR cap-and-trade program requirements. The recent decision by the District Court for the District of Columbia Circuit in *North Carolina* v. *EPA*, No. 05–1244 (July 11, 2008), when final, would vacate CAIR. If CAIR is eventually vacated pursuant to the Court decision, the commenter's concern will no longer exist. However, even if CAIR remains in effect, a State may establish and may be required to establish requirements, including requirements for units covered by CAIR, to address local nonattainment problems. CAIR addresses the state's section 110(a)(2)(D) obligation to eliminate significant contribution to downwind nonattainment on the $PM_{2.5}$ and 8-hour ozone NAAQS. In addition to meeting their 110(a)(2)(D) obligations, states are obliged to adopt such additional SIP provisions as are necessary to address NAAQS nonattainment within their own borders. In addition, they retain authority under section 116 of the CAA to adopt regulations more stringent than federal minimum requirements. The commenter has not identified, and indeed could not identify, any requirement of CAIR that prohibits states from adopting such emission reduction requirements or emission caps. For these reasons, Regulation No. 1146, thus, is not inconsistent with CAIR and the commenter's conclusions are incorrect, because, although more stringent than CAIR, it is intended to address such local contributions to nonattainment areas. EPA therefore concludes that Regulation No. 1146 is approvable whether or not CAIR is eventually vacated.

IV. Final Action

EPA is approving Delaware's EGU Multi-Pollutant Regulation as a revision to Delaware SIP that was submitted on November 16, 2006 pertaining to NO_X and SO_2. This regulation will result in the reduction of NO_X and SO_2 emissions from the affected sources.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, 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 CAA. 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 CAA; 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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 October 27, 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, pertaining to Delaware's EGU Multi-Pollutant Regulation, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 18, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 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 I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended by adding entries for Regulation No. 1146—Electric Generating Unit Multi-Pollutant Regulation at the end of the table to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Regulation No. 1146	**Electric Generating Unit (EGU) Multi-Pollutant Regulation**			
Section 1.0	Preamble	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 2.0	Applicability	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 3.0	Definitions	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 4.0	NO_X Emissions Limitations.	12/11/06	08/28/08 [Insert page number where the document begins].	
Section 5.0	SO_2 Emissions Limitations.	12/11/06	08/28/08 [Insert page number where the document begins].	
Section 7.0	Recordkeeping and Reporting.	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 8.0	Compliance Plan	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 9.0	Penalties	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Table I	Annual NO_X Mass Emissions Limits.	12/11/06	08/28/08 [Insert page number where the document begins].	
Table II	Annual SO_2 Mass Emissions Limits.	12/11/06	08/28/08 [Insert page number where the document begins].	

* * * * *

[FR Doc. E8–19765 Filed 8–27–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–8037]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation proving the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or obtain additional information, contact David Stearrett, Federal Emergency Management Agency, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et. seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet the statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

Previously, FEMA identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on the FEMA initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds the notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because the communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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 rule involves no policies that have federalism implications under Executive Order 13132.

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 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.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region I				
Connecticut:				
Chester, Town of, Middlesex County	090060	January 12, 1973, Emerg; July 16, 1980, Reg; August 28, 2008, Susp.	08/28/2008	08/28/2008.
Clinton, Town of, Middlesex County	090061	March 2, 1973, Emerg; September 30, 1980, Reg; August 28, 2008, Susp.	*.....do	Do.
Deep River, Town of, Middlesex County	090062	March 30, 1973, Emerg; January 16, 1981, Reg; August 28, 2008, Susp.	.....do	Do.
East Haddam, Town of, Middlesex County.	090063	February 10, 1975, Emerg; November 1, 1979, Reg; August 28, 2008, Susp.	.....do	Do.
East Hampton, Town of, Middlesex County.	090064	August 21, 1974, Emerg; October 16, 1979, Reg; August 28, 2008, Susp.	.....do	Do.
Essex, Town of, Middlesex County	090065	February 9, 1973, Emerg; July 16, 1980, Reg; August 28, 2008, Susp.	.....do	Do.
Haddam, Town of, Middlesex County	090066	May 23, 1975, Emerg; January 16, 1980, Reg; August 28, 2008, Susp.	.....do	Do.
Killingworth, Town of, Middlesex County	090174	July 15, 1975, Emerg; March 15, 1982, Reg; August 28, 2008, Susp.	.....do	Do.
Middletown, City of, Middlesex County	090068	August 16, 1974, Emerg; December 16, 1980, Reg; August 28, 2008, Susp.	.....do	Do.
Middlefield, Town of, Middlesex County	090067	October 25, 1973, Emerg; March 28, 1980, Reg; August 28, 2008, Susp.	.....do	Do.
Portland, Town of, Middlesex County	090130	October 31, 1973, Emerg; July 3, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Westbrook, Town of, Middlesex County	090070	March 9, 1973, Emerg; December 1, 1982, Reg; August 28, 2008, Susp.	.....do	Do.
Region II				
New York:				
Brockport, Village of, Monroe County	360411	August 4, 1975, Emerg; April 23, 1982, Reg; August 28, 2008, Susp.	.....do	Do.
Chili, Town of, Monroe County	360412	March 16, 1973, Emerg; February 1, 1979, Reg; August 28, 2008, Susp.	.....do	Do.
East Rochester, Village of, Monroe County.	360414	June 18, 1980, Emerg; August 20, 1982, Reg; August 28, 2008, Susp.	.....do	Do.
Fairport, Village of, Monroe County	360415	January 30, 1975, Emerg; September 5, 1984, Reg; August 28, 2008, Susp.	.....do	Do.
Gates, Town of, Monroe County	360416	July 30, 1974, Emerg; August 2, 1982, Reg; August 28, 2008, Susp.	.....do	Do.
Greece, Town of, Monroe County	360417	March 9, 1973, Emerg; March 18, 1980, Reg; August 28, 2008, Susp.	.....do	Do.
Henrietta, Town of, Monroe County	360419	March 23, 1973, Emerg; November 5, 1980, Reg; August 28, 2008, Susp.	.....do	Do.
Honeoye Falls, Village of, Monroe County.	360421	April 18, 1973, Emerg; September 30, 1977, Reg; August 28, 2008, Susp.	.....do	Do.
Irondequoit, Town of, Monroe County	360422	March 16, 1973, Emerg; November 15, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Mendon, Town of, Monroe County	360423	April 14, 1975, Emerg; April 15, 1982, Reg; August 28, 2008, Susp.	.....do	Do.
Perinton, Town of Monroe County	360428	August 13, 1973, Emerg; September 29, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Pittsford, Town of, Monroe County	360429	May 4, 1973, Emerg; September 29, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Riga, Town of, Monroe County	360430	June 5, 1975, Emerg; June 15, 1981, Reg; August 28, 2008, Susp.	.....do	Do.
Rochester, City of, Monroe County	360431	April 9, 1973, Emerg; November 1, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Spencerport, Village of, Monroe County	360433	August 31, 1973, Emerg; August 15, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Webster, Town of, Monroe County	360436	March 9, 1973, Emerg; October 16, 1979, Reg; August 28, 2008, Susp.	.....do	Do.
Wheatland, Town of, Monroe County	360438	March 30, 1973, Emerg; September 15, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Region III				
Virginia:				
Altavista, Town of, Campbell County	510029	February 19, 1974, Emerg; August 1, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Brookneal, Town of, Campbell County	510030	January 15, 1974, Emerg; March 1, 1978, Reg; August 28, 2008, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Campbell County, Unincorporated Areas.	510028	December 27, 1973, Emerg; October 17, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Cape Charles, Town of, Northampton County.	510106	June 3, 1974, Emerg; February 2, 1983, Reg; August 28, 2008, Susp.	.....do	Do.
Fries, Town of, Grayson County	510215	August 11, 1975, Emerg; February 11, 1983, Reg; August 28, 2008, Susp.	.....do	Do.
Grayson County, Unincorporated Areas	510243	December 4, 1974, Emerg; July 17, 1989, Reg; August 28, 2008, Susp.	.....do	Do.
Independence, Town of, Grayson County.	510238	April 12, 1974, Emerg; February 1, 1985, Reg; August 28, 2008, Susp.	.....do	Do.
Region IV				
Florida:				
Bonita Springs, City of, Lee County	120680	August 16, 2002, Emerg; August 16, 2002, Reg; August 28, 2008, Susp.	.....do	Do.
Cape Coral, City of, Lee County	125095	July 2, 1971, Emerg; August 17, 1981, Reg; August 28, 2008, Susp.	.....do	Do.
Fort Myers, City of, Lee County	125106	October 30, 1970, Emerg; April 16, 1979, Reg; August 28, 2008, Susp.	.....do	Do.
Fort Myers Beach, Town of, Lee County.	120673	October 30, 1970, Emerg; September 19, 1984, Reg; August 28, 2008, Susp.	.....do	Do.
Ocala, City of, Marion County	120330	September 19, 1974, Emerg; September 22, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Plant City, City of, Hillsborough County	120113	June 13, 1975, Emerg; April 29, 1983, Reg; August 28, 2008, Susp.	.....do	Do.
Sanibel, City of, Lee County	120402	May 5, 1975, Emerg; April 16, 1979, Reg; August 28, 2008, Susp.	.....do	Do.
Temple Terrace, City of, Hillsborough County.	120115	July 16, 1971, Emerg; July 8, 1977, Reg; August 28, 2008, Susp.	.....do	Do.
Region V				
Ohio:				
Bay View, Village of, Erie County	390595	June 1, 1973, Emerg; September 15, 1977, Reg; August 28, 2008, Susp.	.....do	Do.
Huron, City of, Erie County	390154	March 30, 1973, Emerg; April 3, 1978, Reg; August 28, 2008, Susp.	.....do	Do.
Sandusky, City of, Erie County	390156	January 28, 1972, Emerg; July 5, 1977, Reg; August 28, 2008, Susp.	.....do	Do.
Region IX				
California:				
Calimesa, City of, Riverside County	060740	May 1, 1991, Emerg; May 1, 1991, Reg; August 28, 2008, Susp.	.....do	Do.
Chino, City of, San Bernardino County	060272	November 21, 1975, Emerg; June 30, 1976, Reg; August 28, 2008, Susp.	.....do	Do.
Coachella, City of, Riverside County	060249	September 11, 1979, Emerg; September 30, 1980, Reg; August 28, 2008, Susp.	.....do	Do.
Loma Linda, City of, San Bernardino County.	065042	March 19, 1971, Emerg; July 16, 1987, Reg; August 28, 2008, Susp.	.....do	Do.

* do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: August 20, 2008.

David I. Maurstad,

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

[FR Doc. E8–19993 Filed 8–27–08; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–1721; MB Docket No. 06–72; RM–11245, RM–11340]

Radio Broadcasting Services; Arlington and Boardman, OR; Boise and Caldwell, ID; Elko, NV; Finley, WA; Grangeville, Hazelton, Iona, Jerome, McCall, and Melba, ID; Owyhee, NV; Pasco, WV; Salmon and Sun Valley, ID; Walla Walla, WA; West Yellowstone, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, this *Report and Order* allots Channel 231C3 to Boardman, Oregon, and Channel 247C3 to Owyhee, Nevada, as first local aural transmission services to those communities. The coordinates for Channel 231C3 at Boardman, Oregon are 45–53–51 NL and 119–55–21 WL. The coordinates for Channel 247C3 at Owyhee, Nevada are 41–55–26 NL and 116–11–16 WL. The *Report and Order* also grants an amended counterproposal filed by College Creek Media, LLC (''College Creek'') that includes the above referenced allotment at Owyhee, Nevada. *See* **SUPPLEMENTARY INFORMATION**.

DATES: Effective September 8, 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* in MB Docket No. 06–72, adopted July 23, 2008, and released July 25, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 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 General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

The following changes in the Media Bureau's Consolidated Data Base Systems were made to reflect the following reserved assignments. Thus, to accommodate the allotment of Channel 247C3 to Owyhee, Nevada, Channel 249C was substituted for Channel 248C, Station KPHD(FM), Elko, Nevada, and reassigned to Melba, Idaho, as Melba's second local aural transmission service. The coordinates for Channel 249C at Melba are 42–51–53 NL and 116–28–39 WL. To reduce the loss area created by the relocation of Station KPHD from Elko, Nevada, to Melba, Idaho, the Commission substituted Channel 237C for Channel 237C1 at Station KRJC(FM), Elko, Nevada, at coordinates of 40–54–35 NL and 115–49–05 WL. To accommodate the allotment of Channel 249C to Melba, Idaho, the Commission substituted Channel 274C for Channel 250C at Station KQFC(FM), Boise, Idaho, at coordinates of 43–45–21 NL and 116–05–54 WL. To accommodate the allotment of Channel 274C to Boise, the Commission has substituted Channel 278C for Channel 277C at Station KSAS–FM, Caldwell, Idaho, at coordinates of 43–45–18 NL and 116–05–52 WL. In order to allow the allotment of Channel 278C to Caldwell, the Commission substituted Channel 233C0 for Channel 279C at Station KSKI–FM, Sun Valley, Idaho, at coordinates of 43–41–06 NL and 114–22–57 WL. To accommodate the allotment of Channel 233C0 to Sun Valley, the Commission previously substituted Channel 260A for Channel 233C0 and, in this proceeding, has substituted Channel 260C1 for Channel 260A at Salmon, Idaho, at coordinates of 45–10–02 NL and 113–52–14 WL. To eliminate the white area created by the removal of Channel 233C0 from Salmon, Idaho, the Commission substituted Channel 225C0 for Channel 224A, Station KSRA–FM, Salmon, Idaho at coordinates of 45–08–42 NL and 114–00–36 WL. To accommodate the allotment of Channel 225C0 to Salmon, Idaho, the Commission substituted Channel 224C0 for Channel 225C at Station KEZQ(FM), West Yellowstone, Montana, and changed Station KEZQ(FM)'s community of license to Iona, Idaho, at coordinates of 43–57–10 NL and 111–52–18 WL, thus providing Iona with its first local aural transmission service. To further accommodate the allotment of Channel 233C0 to Sun Valley, Idaho, the Commission substituted Channel 224C3 for Channel 232C3 at Station KTPZ(FM), Hazelton, Idaho, at coordinates of 42–43–54 NL and 114–25–04 WL. To accommodate the allotment of Channel 274C to Boise, the Commission substituted Channel 276C3 for vacant Channel 275C3 at McCall, Idaho, at coordinates of 44–54–30 NL and 116–06–00 WL. To further accommodate the allotment of Channel 274C to Boise, Idaho, the Commission substituted Channel 276C1 for Channel 275C1 at Station KMVX(FM), Jerome, Idaho, at coordinates of 42–43–54 NL and 114–25–04 WL.

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 reads 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 Idaho, is amended by removing Channel 275C3 and by adding Channel 276C3 at McCall.

■ 3. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Owyhee, Channel 247C3.

■ 4. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Boardman, Channel 231C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. E8–19890 Filed 8–27–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 564 and 571

[Docket No. NHTSA–2007–28322; Notice 2]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Final rule; delay of effective date.

SUMMARY: This final rule delays the effective date of an amendment that reorganizes and improves the structure and clarity of the Federal motor vehicle safety standard on lamps, reflective devices, and associated equipment, from September 1, 2008 to December 1, 2009. The final rule reorganizing the lighting standard was published on December 4, 2007.[1] The agency received fifteen petitions for reconsideration of the final rule, including two that requested a delay in the effective date of the rule, and others which raised concerns that the reorganization of FMVSS No. 108 imposed new requirements. To allow for more time for the agency to analyze the petitions prior to the rule taking effect, the agency is delaying the effective date until December 1, 2009.

DATES: The effective date of the final rule amending 49 CFR parts 564 and 571 published at 72 FR 68234 is delayed until December 1, 2009. The incorporation by reference of certain publications listed in the rules is approved by the Director of the Federal Register as of December 1, 2009. Optional early compliance continues to be permitted. Any petitions for reconsideration of today's final rule must be received by NHTSA not later than October 14, 2008.

ADDRESSES: Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Docket Room W12–140, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. David Hines, Office of Crash Avoidance Standards (Phone: 202–493–0245; FAX: 202–366–7002). For legal issues, you may call Mr. Ari Scott, Office of the Chief Counsel (Phone: 202–366–2992; FAX: 202–366–3820). You may send mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps Reflective Devices, and Associated Equipment,* specifies requirements for original and replacement lamps, reflective devices, and associated equipment. The purpose of FMVSS No. 108 is to reduce traffic accidents and deaths and injuries resulting from traffic accidents, by providing adequate illumination of the roadway, and by enhancing the conspicuity of motor vehicles on the public roads so that their presence is perceived and their signals understood, both in daylight and in darkness or other conditions of reduced visibility.

On December 4, 2007, NHTSA published a final rule amending FMVSS No. 108 to reorganize the standard and provide a more straightforward and logical presentation of the applicable regulatory requirements (*see* 72 FR 68234). Related amendments were made to 49 CFR part 564, *Replacement Light Source Information.* While the final rule greatly reduced the number of third-party standards incorporated by reference, it did not impose any new substantive requirements on manufacturers. Along with the changes made, the final rule specified an effective date of September 1, 2008 for these amendments and permitted voluntary early compliance immediately upon publication.

II. Petitions for Reconsideration

In response to the December 4 final rule, the agency received fifteen petitions for reconsideration. Petitions for reconsideration were submitted by Grote Industries, LLC, Alliance of Automobile Manufacturers (Alliance), Motor and Equipment Manufacturers Association (MEMA)[2], Nissan North America, Inc., Valeo Sylvania, Calcoast Industrial Testing Laboratory, Harley-Davidson Motor Company, Koito Manufacturing Co, Ltd., Ford Motor Company, Toyota Motor North America, Inc., GE Consumer & Industrial Automotive Lighting, SABIC Innovative Plastics, Valeo Lighting Systems, Vehicle Services Consulting, Inc., and American Association for Justice. The petitions addressed a wide range of FMVSS No. 108 subjects, including technical amendments to the rule, concern that the reorganization imposed new requirements, and requests to change the effective date of the final rule. Among the latter, specifically, the Alliance requested that the final rule take effect on September 1, 2009 and Harley-Davidson requested, unless the agency granted all of the items contained in its petition, that the effective date be delayed until September 1, 2010.

III. Agency Response to Petitions

In the December 2007 final rule, the agency set a September 1, 2008 effective date. The fifteen petitions for reconsideration have asked the agency to reconsider many aspects of that rulemaking. However, NHTSA's consideration of the petitions has not yet concluded, and given the imminence of the September 1, 2008 effective date, the agency has determined that it is appropriate to first partially respond to petitions concerning the effective date of the December 2007 final rule. Accordingly, the agency is delaying the effective date of the December 2007 final rule until December 1, 2009, when manufacturers will be required to meet the new requirements of FMVSS No. 108. Other issues raised in the petitions for reconsideration will be addressed by the agency in a separate document.

NHTSA believes that a partial response to the petitions for reconsideration is necessary based upon the number of issues raised in the petitions for reconsideration, and the impact of the revised requirements on compliance documentation. As such, the agency has determined that delaying the effective date is appropriate. The agency notes that the Alliance originally requested an effective date of September 1, 2009, one full year after the final rule in its comments to our Notice of Proposed Rulemaking.[3]

NHTSA expects that all other issues raised in the petitions will be fully addressed prior to the new December 1, 2009 effective date. In the event, however, that these issues have not been resolved, all affected manufacturers will be required to meet the new requirements. Effective dates of agency final rules are not stayed due to outstanding petitions for reconsideration of those rules.

IV. Effective Date of This Document

Because September 1, 2008 (the original effective date for the FMVSS

[1] *See* 72 FR 68234.

[2] MEMA submitted a petition for reconsideration collectively with the Transportation Safety Equipment Institute and the Motor Vehicle Lighting Council.

[3] *See* 70 FR 77454 (December 30, 2005) (Docket No. NHTSA–2006–23634–3).

No. 108 final rule) is fast approaching, NHTSA finds for good cause that this action delaying the effective date should take effect immediately. Today's final rule makes no substantive changes to FMVSS No. 108, but delays the effective date of the December 4, 2007 final rule until December 1, 2009 while the agency responds to the petitions for reconsideration of the rule.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This action delays the effective date of an administrative rewrite of FMVSS No. 108. It was not reviewed by the Office of Management and Budget under E.O. 12866. The agency has considered the impact of this action under the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979), and has determined that it is not ''significant'' under them.

This final rule delays the effective date of a December 4, 2007 final rule, from September 1, 2008, to December 1, 2009. Neither that rule nor today's action will have any measurable effect on costs or benefits since the rule merely reorganizes and clarifies existing requirements.

B. Privacy Act

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

C. Other Rulemaking Analyses and Notices

In the December 2007 final rule, the agency discussed relevant requirements related to the Regulatory Flexibility Act, the National Environmental Policy Act, Executive Order 13132 (Federalism), the Unfunded Mandates Reform Act, Civil Justice Reform, the National Technology Transfer and Advancement Act, the Paperwork Reduction Act, and Executive Order 13045 (Protection of Children from Environmental Health and Safety Risks). Since that final rule was an administrative rewrite of existing requirements and since today's action simply delays the effective date of that final rule, today's rule does not affect the agency's analyses in those areas.

Authority: 49 U.S.C 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8.

Issued: August 21, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–19837 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 73, No. 168
Thursday, August 28, 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

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 319

[Docket No. APHIS–2007–0115]

RIN 0579–AC83

Importation of Sweet Oranges and Grapefruit From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Based on the evidence in a recent pest risk analysis, we believe these articles can be safely imported from all provinces of Chile, provided certain conditions are met. This action would provide for the importation of sweet oranges and grapefruit from Chile into the continental United States while continuing to protect the United States against the introduction of plant pests.

DATES: We will consider all comments that we receive on or before October 27, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2007–0115* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2007–0115, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0115.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operation Staff, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 734–5333.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–47, referred to below as the regulations), prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests. The Government of the Republic of Chile has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow the importation into United States of sweet oranges and grapefruit from Chile under certain conditions. Those conditions would be the same as those which currently apply to clementines, mandarins, and tangerines from Chile and can be found in § 319.56–38 of the regulations.

In 2006, APHIS received a request from the Government of Chile to allow the importation of sweet oranges (*Citrus sinensis* (L.) Osbeck) and grapefruit (*Citrus paradisi* Macfad.) from Chile into the United States. In response to this request, we prepared a pest risk assessment to evaluate the pest risks associated with the importation of those two varieties of citrus from Chile into the continental United States. As noted in that document, we identified two quarantine pests, *Ceratatis capitata,* a fruit fly more commonly known as the Mediterranean fruit fly (Medfly), and *Brevipalpus chilensis* (Chilean false red mite), that could follow the pathway of commercial shipments of fresh sweet oranges and grapefruit. In addition to the pest risk assessment, we prepared a risk management document in which we identified several mitigations that could be used to address the risks posed by the two pests of concern. Those measures include cold treatment, methyl bromide fumigation, and an existing systems approach for other citrus varieties from Chile. Copies of the pest risk assessment and risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the conclusions in the pest risk assessment and the accompanying risk management document, we have determined that sweet oranges and grapefruit can be safely imported from all provinces of Chile, provided certain conditions are met. As stated previously in this document, those conditions would be the same as those which currently apply to clementines, mandarins, and tangerines from Chile, which have proven effective at eliminating pests associated with those commodities since 2004. Therefore, we are proposing to add sweet oranges and grapefruit to the list of fruit that can be imported under § 319.56–38. The details of those requirements are discussed in the paragraphs below.

Permit

We would require that a specific written permit be issued in accordance with § 319.56–3 to import sweet oranges and grapefruit from Chile. Importers would be required to apply to APHIS' Plant Protection and Quarantine (PPQ) program for a permit in advance of the proposed shipments, stating in the application the country or locality of origin of the fruits, the port of first arrival, the name and address of the importer in the United States, and the identity and quantity of the fruit. If APHIS approves the permit application, a permit would be issued specifying the conditions applicable to the importation of the fruit. In accordance with § 319.56–3, a permit, once issued, could be amended or withdrawn by the Administrator at any time if it is determined that the importation of the fruit presents a risk.

Cold Treatment

One of the two pests of concern identified in the pest risk assessment document is Medfly. To address the risk presented by this pest, we are proposing to require sweet oranges and grapefruit undergo cold treatment if the fruit is grown in areas of Chile where Medfly is known to occur, which include the province of Arica. Consignments of sweet oranges and grapefruit from these areas would require cold treatment in accordance with our phytosanitary treatments regulations in 7 CFR part 305 and would also have to be accompanied by documentation indicating that the cold treatment was initiated in Chile.

Importation Options

The second pest of concern identified in the pest risk analysis, *B. chilensis,* is a mite that is not easily detected through visual inspection. To address the risk presented by this pest, we would require the use of one of two options, either the application of a systems approach or the use of fumigation. The systems approach would allow for the importation of the fruit without fumigation, which, in some instances, may be a more expensive option. These options are discussed in detail in the following paragraphs.

Systems Approach

The first option being proposed by APHIS under which sweet oranges and grapefruit could be imported into the United States from Chile is preclearance of the commodities using a systems approach to ensure phytosanitary security. Under a systems approach, APHIS defines a set of phytosanitary procedures, at least two of which have an independent effect in mitigating pest risk associated with the movement of commodities, whereby fruits and vegetables may be imported into the United States from countries that are not free of certain plant pests. The systems approach in this case would consist of a series of complementary phytosanitary measures that include: Low prevalence production site certification, post-harvest processing, and phytosanitary inspection. Each of these measures is explained in detail in the following paragraphs. Once the fruit have passed through this series of pest mitigation measures, inspectors of the national plant protection organization (NPPO) of Chile would issue a phytosanitary certificate stating that the fruit has been inspected and found free of any evidence of plant pests. A phytosanitary certificate would have to accompany each consignment of sweet oranges or grapefruit offered for importation into the United States from Chile.

Low Prevalence Production Site Certification

The pest risk management document outlines a series of phytosanitary measures whose implementation would mitigate the potential risk of introducing quarantine pests into the United States through the importation of sweet oranges and grapefruit from Chile. In order to be eligible to participate in the systems approach, each production site would be required to implement the mitigation measures discussed in the pest risk management document. The first of these measures, low prevalence production site certification, would require each production site to register annually with the NPPO of Chile with information including: (1) Production site name, (2) grower, (3) municipality, (4) province, (5) region, (6) area planted to each species, (7) number of plants/hectares/species, and (8) approximate date of harvest. This information would be used to monitor the phytosanitary health of the production site and to track the origin of consignments. These production sites would then participate in a program of certification of low prevalence, which would be carried out by the NPPO of Chile. A random sample of fruit would be collected from each registered production site 1 to 30 days prior to harvest. The fruit from each sample would undergo a washing process that allows for the detection of mites. This same process has proven to be effective in the detection of *B. chilensis* in clementines, mandarins, and tangerines from Chile since 2004.[1] The washing process involves placing the fruit and pedicels in sieves, sprinkling them with a liquid soap and water solution, washing them with water at high pressure, washing them with water at low pressure, and then repeating the process. Once the fruit has been washed thoroughly, all contents of the sieves, which collect everything that is washed off of the fruit, are put on a Petri dish and analyzed for the presence of mites.

Only production sites certified by the NPPO of Chile as low prevalence would be eligible to export under this systems approach. Under this systems approach, a random sample of fruit would be taken from each production site. In order to qualify as a low prevalence production site, a production site would be required to have no mites detected in the fruit sampled. Each production site would have only one opportunity per harvest season to qualify for the certification program since the verification process would occur before the beginning of each harvest season. Certification of low prevalence would be valid for one harvest season only. The same certification of low prevalence program is currently in use for clementines, mandarins, and tangerines imported into the United States from Chile.

Post-Harvest Processing

Once the production site has been certified as a low prevalence production site, the fruit would be picked and would then undergo post-harvest commercial processing. In the normal fruit packing process already in place in Chile for other commodities, fruit undergoes the following steps: (1) Washing, (2) rinsing in a chlorine bath with brushing using bristle rollers, (3) rinsing with a hot water shower with brushing using bristle rollers, (4) pre-drying at room temperature, (5) waxing, and (6) drying with hot air.

Phytosanitary Inspection

As the final stage in the systems approach, once the fruit has been processed, each consignment, which would consist of one or more lots, of fruit intended for export to the United States would be subject to a phytosanitary inspection to verify the absence of *B. chilensis* and any visibly detectable pests. Phytosanitary inspection would be conducted at an APHIS-approved inspection site in Chile under the direction of APHIS in conjunction with the NPPO of Chile.

Sweet oranges and grapefruit presented for preclearance inspection in Chile would be required to be identified in shipping documents accompanying each lot of fruit that identify the packing shed where they were processed and the production sites where they were produced; we would require that this identity be maintained until the sweet oranges or grapefruit were released for entry into the United States.

A biometric sample of the boxes would be selected and the fruit from these boxes would be visually inspected for quarantine pests. A portion of the fruit would be washed and the collected filtrate would be microscopically examined for *B. chilensis*.

If one live *B. chilensis* s mite were found during phytosanitary inspection, the entire consignment would have to be fumigated with methyl bromide in order for the fruit to be eligible for export to the United States. In addition, the production site of origin would be suspended from the low prevalence certification program for the remainder of the harvest season. During the term of its suspension, the production site

[1] See table 1 of the risk management document.

could export fruit to the United States only if the fruit were fumigated with methyl bromide, as outlined in the following section. A suspended production site would have the opportunity to reenter the low prevalence certification program prior to the next harvest season. As noted previously, all production sites would have to requalify for the program each year, regardless of their status at the end of the preceding season.

If, during preclearance inspection in Chile, inspectors were to find evidence of any other plant pest for which an authorized treatment in 7 CFR part 305 is available, fruit in the consignment would remain eligible for export to the United States if the entire consignment were treated for the pest in Chile under APHIS supervision. However, if a quarantine pest were found for which no treatment authorized in 7 CFR part 305 is available, the entire consignment would not be eligible for export to the United States.

Chile's NPPO would issue a phytosanitary certificate if no evidence of pests was found. The phytosanitary certificate would have to contain an additional declaration stating that the fruit in the consignment meets the conditions of § 319.56–38. Sweet oranges or grapefruit inspected in Chile would, like all imported fruits and vegetables, be subject to reinspection at the U.S. port of arrival as provided in § 319.56–3 of the regulations.

Fumigation

Not all exporters may be able to utilize the systems approach as a means for access to the U.S. market. As an alternative mitigation measure, we are proposing to provide for the use of an approved APHIS treatment for *B. chilensis* for sweet oranges and grapefruit from Chile.

The treatment would be fumigation with methyl bromide at normal atmospheric pressure in an APHIS-approved fumigation chamber or under a tarpaulin in accordance with the following schedule, which is listed in 7 CFR part 305 as T104-a-1 and T101-n-2–1. These treatment schedules are approved for spider mites, which is the group encompassing *B. chilensis*. The required treatment period is 2 hours.

Temperature (°F)	Dosage—pounds of methyl bromide per 1,000 ft^3
80 or above	1½
70–79 (inclusive)	2
60–69 (inclusive)	2½
50–59 (inclusive)	3

APHIS inspectors would monitor the fumigation and prescribe such safeguards as might be necessary for unloading, handling, and transportation preparatory to fumigation. The final release of the commodities for entry into the United States would be conditioned upon compliance with prescribed safeguards and required treatment. Consignments of sweet oranges and grapefruit from Chile that had been fumigated would be subject to random inspection in Chile, as well as at the port of arrival in accordance with § 319.56–3.

Trust Fund Agreement

We are proposing to require that sweet oranges and grapefruit from Chile may be imported into the United States only if the NPPO of Chile or a private export group has entered into a trust fund agreement with APHIS in accordance with § 319.56–6. Requiring the payment of costs in advance is necessary to help defray the costs to APHIS of providing inspection and treatment monitoring services in Chile.

Section 319.56–6 of the regulations sets forth provisions for establishing trust fund agreements to cover costs incurred by APHIS when APHIS personnel must be physically present in an exporting country or region to facilitate exports. Trust fund agreements require the NPPO of an exporting country or the private export group to pay in advance of each shipping season all costs that APHIS estimates it would incur in providing inspection services and treatment monitoring in the exporting country during each shipping season. These costs would include administrative expenses and all other salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The NPPO of an exporting country or the private export group is required to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement requires the NPPO of the exporting country or the private export group to deposit a certified or cashier's check with APHIS for the amount of the remaining costs, as determined by APHIS, before APHIS would provide any more services related to the inspection and treatment of the fruit or vegetable. After a final audit at the conclusion of each shipping season, any overpayment of funds is returned to the NPPO of the exporting country or held on account until needed, at their option.

Miscellaneous Changes

As noted previously, the current regulations in § 319.56–38 provide for the importation of clementines, mandarins, and tangerines from Chile into the United States. As defined in § 319.56–2, the term *United States* includes the 50 States, the District of Columbia, and all U.S. territories and possessions. However, the pest risk assessment we prepared for the rulemaking that established the regulations in current § 319.56–38 was limited in scope to the continental United States and Hawaii. Therefore, to ensure that the regulations are consistent with the pest risk assessment's scope, we would amend the introductory text of § 319.56–38 to specifically state that clementines, mandarins, and tangerines may be imported from Chile into the continental United States (including Alaska) and Hawaii only.

The regulations in current § 319.56–38 provide that if treatment is required, clementines, mandarins, and tangerines must be cold treated or fumigated with methyl bromide in accordance with part 305. The table in § 305.2(h)(2)(i) identifies treatment schedules for fruits and vegetables from foreign localities for which there is an approved treatment. When we amended the fruits and vegetables regulations to provide for the importation of clementines, mandarins, and tangerines, we neglected to add an entry for those commodities to the table in § 305.2(h)(2)(i). To correct this error, we propose to amend the table in § 305.2(h)(2)(i) to include entries for clementines, mandarins, and tangerines from Chile and to specifically identify the cold treatment and methyl bromide fumigation treatment schedules that are approved for those commodities.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to amend the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Sweet oranges and grapefruit would be imported under certain conditions that would address the risks associated with the Medfly and *B. chilensis*. Phytosanitary risks would be mitigated

using the same approach as is currently employed for the importation of clementines, mandarins, and tangerines from Chile, as set forth in 7 CFR 319.56–38. Import requirements would include orchard control and registration, low prevalence orchard certification, harvest timing, post-harvest processing, phytosanitary inspections by both APHIS and the Chilean NPPO, and, if necessary, approved cold treatment and/or methyl bromide treatment in Chile or at the port of entry.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 603 of the Act requires an agency to prepare and make available for public comment an initial regulatory flexibility analysis describing the expected impact of a proposed rule on small entities, unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This analysis is in support of certification.

Sweet Orange and Grapefruit Production

The United States is a major producer of citrus fruits. Chile is not yet considered a major producer of citrus, especially when compared to its neighbors such as Brazil, Uruguay, and Argentina. The major world producers of fresh oranges are the United States, Brazil, Mexico, India, and China, while the major exporting countries include Spain, the United States, South Africa, the Netherlands, and Greece.[2] Commercial production of sweet oranges and grapefruit in the continental United States is limited to Arizona, California, Florida, Louisiana, and Texas. Most of the production is located within Florida and California. California is the leading producer of oranges for the fresh market, major varieties of which include Valencia and navel. While Florida produces a larger total quantity of oranges, only 5 percent of the State's orange crop is consumed as fresh fruit. Florida supplies the highest amount of fresh grapefruit, and 45 percent of the U.S. grapefruit crop is utilized as fresh fruit.

TABLE 1—PRODUCTION IN UNITED STATES OF FRESH ORANGES AND GRAPEFRUIT

[in short tons]

	2003/04		2004/05		2005/06		2006/07	
	Orange	Grapefruit	Orange	Grapefruit	Orange	Grapefruit	Orange	Grapefruit
Arizona	14,000	5,000	12,000	5,000	9,000	5,000	7,000	3,000
California	1,669,000	171,000	1,845,000	181,000	1,650,000	178,000	986,000	117,000
Florida	445,000	708,000	333,000	315,000	329,000	294,000	290,000	466,000
Texas	50,000	137,000	52,000	125,000	54,000	128,000	63,000	138,000
Total	2,178,000	1,021,000	2,242,000	626,000	2,042,000	603,000	1,346,000	724,000

Source: Economic Research Service (ERS), U.S. Department of Agriculture (USDA). Fruit and Tree Nuts Situation and Outlook Yearbook, October 2007, combination of table C–21 Oranges: Utilization of production by State and table C–3 Grapefruit: Utilization of production by State. Note: Season begins in November for Arizona and California, and in October for Florida and Texas. Quantities for 2006/07 are totaled through October 2007 only.

In 2006, Chile produced 156,000 short tons of fresh oranges on 8,000 hectares.[3] The Asociación de Exportadores de Chile (ASOEX) states that there are no official figures for the production of grapefruit, as grapefruit is a relatively new species in Chile with a small growing area.[4] APHIS estimates, based on the total Chilean citrus export volume, that approximately 5,000 short tons of grapefruit were produced in 2006.

Imports and Exports

In 2006, more than 97 percent of U.S. orange imports came from the countries of South Africa, Australia, and Mexico, while 99 percent of grapefruit imports (including pomelos, fresh or dried) came from the Bahamas and Israel. Table 2 shows the value and quantity of fresh oranges and grapefruit imported into the United States from 2003–2006.

TABLE 2—U.S. TOTAL IMPORTS OF FRESH ORANGES AND GRAPEFRUIT

	Total value (in dollars)		Quantity in short tons		Value per short ton	
	Oranges	Grapefruit	Oranges	Grapefruit	Oranges	Grapefruit
2003	$49,876,360	$1,851,185	59,955	22,828	$831.89	$81.09
2004	58,785,735	1,606,153	72,387	15,780	812.11	101.78
2005	68,502,310	1,403,260	76,122	15,816	899.90	88.73
2006	80,612,248	2,142,111	81,117	20,890	993.78	102.54

Source: Global Trade Atlas (2005–2008). Originally reported in kilograms.

The United States is a major exporter of fresh or dried oranges. In the 2005–2006 season, the United States exported around 600,000 short tons of fresh oranges, while imports were around 80,000 short tons.[5] Regarding grapefruit, around 300,000 short tons were exported and only 20,000 short tons were imported.[6] Clearly, the United

[2] HS code 080510, fresh and dried oranges.

[3] Food and Agriculture Organization (FAO) of the United Nations. FAOSTAT, FAO Statistics Production Division 2008, ProdStat, Crops. Originally reported as 142,000 metric tons. *http://faostat.fao.org/site/567/default.aspx.*

[4] *http://www.asoex.cl/.*

[5] Eighty-four percent of total exports were to Canada, Japan, South Korea, Hong Kong, and China.

[6] ERS, USDA. Fruit and Tree Nuts Situation and Outlook Yearbook/FTS–2007/October 2007. Table F–18—Fresh Oranges, Supply and Utilization. Pg. 150. Converted from million pounds using 1 pound = 0.0005 short tons.

States is a large net exporter of both sweet oranges and grapefruit.

Chile's current citrus exports are to Japan, Spain, the Netherlands, and Canada. In the past 6 years, orange exports have dramatically increased, from 3,600 short tons to over 28,000 short tons, while grapefruit exports increased from 337 short tons to over 4,300 short tons.[7] Like the United States but on a smaller scale, Chile is a net exporter of sweet oranges and grapefruit. Its share of overseas citrus markets such as that of Japan continues to expand.[8]

Expected U.S Imports of Sweet Oranges and Grapefruit From Chile

According to the NPPO of Chile, annual exports of sweet oranges and grapefruit to the United States from Chile would total around 110,000 boxes: 93,500 boxes of oranges and 16,500 boxes of grapefruit. The boxes are 17 kilograms for sweet oranges and 15 kilograms for grapefruit, yielding approximately 1752.1 short tons of oranges and 272.8 short tons of grapefruit, or about 2,000 short tons overall. This volume of imports from Chile would comprise a relatively minimal amount compared to total U.S. imports of about 100,000 short tons and domestic production of more than 2.6 million short tons (table 3). The expected imports from Chile would be equivalent to 2 percent of U.S. imports of oranges and grapefruit in 2006 and less than 0.1 percent of U.S. production.

TABLE 3—COMBINED QUANTITIES OF U.S. FRESH ORANGES AND GRAPEFRUIT, DOMESTICALLY PRODUCED AND IMPORTED, AND EXPECTED ANNUAL IMPORTS FROM CHILE

	Volume in short tons
Domestic production, 2006	2,645,000
All imports, 2006	102,006
Expected annual imports from Chile	2,025

Seasonal Production and Marketing of Oranges and Grapefruit

Another aspect to consider regarding potential impacts of the proposed rule is the seasonal difference between the citrus industries in the United States and Chile. U.S imports of fresh fruit and vegetables have increased substantially since the 1990s.[9] Southern hemisphere countries are dominant suppliers for off-season fresh fruit. Availability of domestically produced oranges and grapefruit peaks between October and January, gradually decreases from February to June, and is lowest between July and September.[10] In contrast, citrus production in the southern hemisphere is between May and November. Imports from the southern hemisphere complement the U.S. production cycle and help to maintain year-round availability of fresh citrus. Allowing importation of oranges and grapefruit from Chile would expand U.S. consumers' access to fresh produce year round, while not directly competing with the production and shipment of domestically produced oranges and grapefruit intended for the fresh fruit market.

Small Entity Impact

Businesses most likely to be affected by this rule would be orange and grapefruit producers, for which the Small Business Administration (SBA) small-entity standard is annual sales of not more than $750,000. Production of fresh oranges is classified under North American Industry Classification System (NAICS) code 111310, and grapefruit production is classified within NAICS code 111320, citrus (except orange) groves.[11] In 2002, NASS reported that 1,272 out of 17,727 citrus farmers earned more than $500,000, indicating that at least 93 percent of U.S. citrus farmers are small entities. For California the statistics are similar, with 91 percent of citrus farmers earning under $500,000. These data substantiate that the majority of U.S fresh citrus producers are small entities.

Some importers of sweet oranges and grapefruit could be affected by the proposed rule as well, as it would allow for increased imports during the off-peak domestic citrus season. These industries and their small-entity size standards are: Fresh fruit and vegetable wholesalers (NAICS 424280, less than or equal to 100 employees), wholesalers and other grocery stores (NAICS 445110, less than or equal to $23 million in annual receipts), warehouse clubs and superstores (NAICS 452910, less than or equal to $23 million in annual receipts) and fruit and vegetable markets (NAICS 445230, less than or equal to $6 million in annual receipts). Most entities that comprise these industries are small. Given the relatively small quantity of sweet oranges and grapefruit expected to be imported from Chile, the rule would not have a significant impact on these types of industries.

U.S. exports of sweet oranges and grapefruit far exceed U.S. imports. The expected level of imports of oranges and grapefruit from Chile would be equivalent to 2 percent of all U.S. imports in 2006 and less than 0.1 percent of U.S. production that year. Moreover, the imports from Chile would take place during the off-season for U.S. domestically produced citrus, and would therefore primarily compete with orange and grapefruit imports from other sources in the southern hemisphere. While U.S producers and importers of sweet oranges and grapefruit are predominantly small according to SBA guidelines, based on available information the proposed rule would not have a significant economic impact on a substantial number of small entities. In addition, as stated previously, to ensure that the regulations are consistent with the pest risk assessment's scope, we would amend the introductory text of § 319.56–38 to specifically state that clementines, mandarins, and tangerines may be imported from Chile into the continental United States (including Alaska) and Hawaii only. We do not have information regarding the potential impact to small U.S. entities outside of the continental United States and Hawaii as a result of this proposed change. APHIS welcomes public comment on the proposed rule's possible impacts.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow sweet oranges and grapefruit to be imported into the continental United States from Chile. If this proposed rule is adopted, State and local laws and regulations regarding sweet oranges and grapefruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh sweet oranges and grapefruit are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-

[7] Global Trade Atlas (2005–2008). Originally reported in kilograms. 1 kg = 0.0011023 short tons.

[8] USDA. Foreign Agricultural Service. Situation and Outlook for Citrus. February 2006. pg. 6. *http://www.fas.usda.gov/htp/Hort_Circular/2006/02–06/02–20–06%20Citrus%20Feature.pdf.*

[9] USDA, ERS. Increased U.S. Imports of Fresh Fruit and Vegetables. Sophia Huang and Kuo Huang. Sept. 2007.

[10] *http://www.dneworld.com/FreshCitrus/CitrusAvailability/tabid/157/Default.aspx.* Chile data from Chilean Fresh Fruit. *http://www.chileanfreshfruit.com/citrus.shtml.*

[11] Also includes lemon, lime, mandarin, tangelo, and tangerine.

case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the importation of sweet oranges and grapefruit from Chile, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room. (A link to Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lists of Subjects

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR parts 305 and 319 as follows:

PART 305—PHYTOSANITARY TREATMENTS

1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 305.2, the table in paragraph (h)(2)(i) is amended by adding, in alphabetical order, entries under Chile (all provinces except provinces of Region 1 or Chanaral Township of Region 3) and Chile (all provinces of Region 1 or Chanaral Township of Region 3), for clementines, grapefruit, mandarins, oranges, and tangerines to read as set forth below.

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

Location	Commodity	Pest	Treatment schedule
* * *	*	* *	*
Chile (all provinces except provinces of Region 1 or Chanaral Township of Region 3).			
* * *	*	* *	*
	Clementines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Grapefruit	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Mandarins	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
	Oranges	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Tangerines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
Chile (all provinces of Region 1 or Chanaral Township of Region 3).			
* * *	*	* *	*
	Clementines	*Brevipalpus chilensis* *Ceratitis capitata*	MB T104–a–1 or MB T101–n–2–1. CT T107–a.
* * *	*	* *	*
	Grapefruit	*Brevipalpus chilensis* *Ceratitis capitata*	MB T104-a-1 or MB T101–n–2–1. CT T107–a.
* * *	*	* *	*
	Mandarins	*Brevipalpus chilensis* *Ceratitis capitata*	MB T104–a–1 or MB T101–n–2–1. CT T107–a.

Location	Commodity	Pest	Treatment schedule
* * *	*	* *	*
	Oranges	*Brevipalpus chilensis*	MB T104–a–1 or
		Ceratitis capitata	MB T101–n–2–1.
			CT T107–a.
* * *	*	* *	*
	Tangerines	*Brevipalpus chilensis*	MB T104–a–1 or
		Ceratitis capitata	MB T101–n–2–1.
			CT T107–a.
* * *	*	* *	*

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

4. Section 319.56–38 is amended as follows:

a. By revising the section heading and the introductory text to read as set forth below.

b. In paragraph (e), by removing the words ''Clementines, mandarins, or tangerines'' and adding the words ''Clementines, grapefruit, mandarins, sweet oranges, or tangerines'' in their place.

c. In paragraph (f), by removing the words ''Clementines, mandarins, or tangerines'' and adding the words ''Clementines, grapefruit, mandarins, sweet oranges, and tangerines'' in their place.

§ 319.56–38 Citrus from Chile.

Clementines (*Citrus reticulata* Blanco var. Clementine), mandarins (*Citrus reticulata* Blanco), and tangerines (*Citrus reticulata* Blanco) may be imported into the continental United States and Hawaii from Chile and grapefruit (*Citrus paradisi* Macfad.) and sweet oranges (*Citrus sinensis* (L.) Osbeck) may be imported into the continental United States from Chile in accordance with this section and all other applicable provisions of this subpart.

* * * * *

Done in Washington, DC, this 22nd day of August 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–19871 Filed 8–27–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0838]

RIN 1625–AA00

Safety Zone: Christmas Holiday Boat Parade Fireworks Event, Appomattox River, Hopewell, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a safety zone on the Appomattox River in the vicinity of Hopewell, VA in support of the Christmas Holiday Boat Parade Fireworks Event. This action will protect the maritime public on the Appomattox River from the hazards associated with fireworks displays.

DATES: Comments and related material must reach the Coast Guard on or before September 29, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0838 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Tiffany Duffy, Chief, Waterways Management Division, Sector Hampton Roads at (757) 668–5580. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0838), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time. Enter the docket number for this rulemaking (USCG–2008–0838) in the Search box, and click ''Go>>.'' You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Commander, Sector Hampton Roads, Norfolk Federal Building, 200 Granby St., 7th Floor between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On December 6, 2008 the City of Hopewell, VA will sponsor a fireworks display on the Appomattox River in position 37°19′34″ N 77°16′00″ W (NAD 1983). Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, access to the Appomattox River within 420 feet of the fireworks barge within the above-mentioned designated area will be temporarily restricted.

Discussion of Proposed Rule

The Coast Guard is establishing a safety zone on specified waters of the Appomattox River in the vicinity of Hopewell, VA. This safety zone will encompass all navigable waters within 420 feet of the fireworks barge located in position 37°19′34″ N 77°16′00″ W (NAD 1983). This regulated area will be established in the interest of public safety during the Christmas Holiday Boat Parade Fireworks Event and will be enforced from 8 p.m. to 9 p.m. on December 6, 2008. Access to the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

Regulatory Analyses

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

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although this proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The safety zone will only be in place for a limited duration. Maritime advisories will be issued allowing the mariners to adjust their plans accordingly. However, this rule may affect the following entities, some of which may be small entities: Owners and operators of vessels intending to transit or anchor in that portion of the Appomattox River from 8 p.m. to 9 p.m. on December 6, 2008.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Tiffany Duffy, Chief, Waterways Management Division, Sector Hampton Roads at (757) 668–5580. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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. Chapter 701, 3306, 3703; 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. Add § 165.T05–0838 to read as follows:

§ 165.T05–0838 Safety Zone: Christmas Holiday Boat Parade Fireworks Event, Appomattox River, Hopewell, VA.

(a) *Regulated Area.* The following area is a safety zone: All waters of the Appomattox River, located within 420 feet of position 37°19″34′ N, 77°16″00′ W (NAD 1983) in the vicinity of Hopewell, VA.

(b) *Definition.* Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port Hampton Roads, Virginia to act on his behalf.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port Hampton Roads and the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia can be contacted at telephone number (757) 668–5555 or (757) 484–8192.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Effective Period.* This regulation will be in effect from 8 p.m. to 9 p.m. on December 6, 2008.

Dated: August 19, 2008.

Patrick B. Trapp,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. E8–19988 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 146

[EPA–HQ–OW–2008–0390; FRL–8709–8]

RIN 2040–AE98

Proposed Federal Requirements Under the Underground Injection Control (UIC) Program for Carbon Dioxide (CO_2) Geologic Sequestration (GS) Wells; Notice of Public Hearings

AGENCY: Environmental Protection Agency.

ACTION: Announcement of public hearings.

SUMMARY: The Environmental Protection Agency (EPA) is holding two public hearings to solicit public comment on the recently proposed regulations for the underground injection of carbon dioxide (CO_2) for geologic sequestration under the Safe Drinking Water Act (SDWA). The SDWA requires EPA to protect underground sources of drinking water. The Underground Injection Control (UIC) Program works with States, Territories, and Tribes to regulate underground injection activities and

prevent endangerment of drinking water sources. These hearings will provide interested parties with an opportunity to provide oral comments on the proposed rule. The oral comments will become part of the official rule-making record.

DATES: The hearings will be held from 9 a.m. to 5 p.m., CDT, September 30, 2008 in Chicago, IL, and 9 a.m. to 5 p.m., MDT, October 2, 2008 in Denver, CO.

ADDRESSES: In Chicago, IL the hearing will be held at the Ralph H. Metcalfe Federal Building, 77 W. Jackson Boulevard, Chicago, IL 60604. The Denver, CO hearing will be at the Colorado Convention Center, 700 14th St., Denver, CO 80202. Due to capacity limitations, we encourage you to indicate your intent to participate through pre-registration. To pre-register, for directions, and for site specific information, please visit the following Web site: *http://gshearing.cadmusweb.com/*.

FOR FURTHER INFORMATION CONTACT: For general information about these public hearings, please contact Mary Rose (Molly) Bayer by phone (202) 564–1981, by e-mail at *bayer.maryrose@epa.gov*, or by mail at: U.S. Environmental Protection Agency, Mail Code 4606M, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: On July 25, 2008 at 73 FR 43491, EPA proposed requirements for underground injection of carbon dioxide for geologic sequestration. The proposal included a request for public comment and also described EPA's intent to convene public hearings on the proposed rule. This notice provides information about the dates and locations for those hearings. The proposed rule applies to owners or operators of wells that will be used to inject CO_2 into the subsurface for the purpose of long-term storage. It proposes a new class of well (Class VI) and technical criteria for the geologic site characterization, area of review (AoR) and corrective action, well construction, operation, mechanical integrity testing, monitoring, well plugging, post-injection site care, and site closure for the purposes of protecting underground sources of drinking water.

For more information on Geologic Sequestration and the Underground Injection Control Program, please visit *http://www.epa.gov/safewater/uic/index.html*. To submit written comments, the docket can be viewed at *http://www.regulations.gov* (Docket Id: EPA–HQ–OW–2008–0390). Comments on the proposed rule must be received by November 24, 2008.

Special Accommodations

For information on access or services for individuals with disabilities, please contact Mary Rose (Molly) Bayer at (202) 564–1981 or *bayer.maryrose@epa.gov*. To request accommodation of a disability, please contact Mary Rose Bayer, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: August 21, 2008.

Nanci Gelb,

Deputy Director, Office of Ground Water and Drinking Water.

[FR Doc. E8–19998 Filed 8–27–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[WC Docket No. 08–171; FCC 08–195]

Implementation of the New and Emerging Technologies 911 Improvement Act of 2008

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (Commission) adopted a Notice of Proposed Rulemaking seeking comment on rules that must be adopted pursuant to the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act). This action is necessary because the NET 911 Act commands us to issue certain regulations within 90 days of the NET 911 Act's enactment. The intended effect of this action is to generate comment to guide the Commission when issuing those particular regulations.

DATES: Comments are due on or before September 9, 2008, and reply comments are due on or before September 17, 2008.

ADDRESSES: You may submit comments, identified by WC Docket No. 08–171, by any of the following methods:

- *Federal e-Rulemaking Portal*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site*: *http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.
- *E-mail*: *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response. Include the docket number(s) in the subject line of the message.
- *Mail*: Secretary, Federal Communications Commission, 445 12th Street, SW., Washington DC 20554.
- *Hand Delivery/Courier*: 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.
- *People with Disabilities*: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

All submissions received must include the agency name and docket number for this rulemaking, WC Docket No. 08–171. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs*. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Matt Warner, Wireline Competition Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's e-Rulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal e-Rulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Paper Filers*: Parties who choose to file by paper must file an original and

four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

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

Notice of Proposed Rulemaking

I. Introduction

1. 911 service is critical to our nation's ability to respond to a host of crises. The New and Emerging Technologies (NET) 911 Improvement Act of 2008 (NET 911 Act), signed into law on July 23, 2008, is designed to ''promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E911 services, encourage the Nation's transition to a national IP-enabled emergency network, and improve 911 and enhanced 911 (E911) access to those with disabilities.'' This Notice of Proposed Rulemaking (NPRM) marks our first step towards implementing this new legislation.

2. The NET 911 Act addresses several aspects of our nation's 911 system. This NPRM focuses on one particular obligation in the NET 911 Act: The Commission must, no later than October 21, 2008, issue regulations implementing certain key provisions that, among other things, ensure that providers of IP-enabled voice services have access to the capabilities they need to provide 911 and E911 service. We fully intend to have those regulations in place by Congress's deadline. Therefore we issue this NPRM and provide a short comment cycle that will allow us to meet our statutory obligation.

II. Background

3. The NET 911 Act explicitly imposes on each IP-enabled voice service provider the obligation to provide 911 service and E911 service in accordance with Commission requirements. The NET 911 Act also grants each IP-enabled voice service provider rights with respect to ''capabilities'' to provide 911 and E911 services. Specifically, section 102 of the NET 911 Act adds a new section 6 to the Wireless 911 Act, which states in relevant part:

> (a) DUTIES.—It shall be the duty of each IP-enabled voice service provider to provide 9–1–1 service and enhanced 9–1–1 service to its subscribers in accordance with the requirements of the Federal Communications Commission, as in effect on the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008 and as such requirements may be modified by the Commission from time to time.
>
> (b) PARITY FOR IP-ENABLED VOICE SERVICE PROVIDERS.—An IP-enabled voice service provider that seeks capabilities to provide 9–1–1 and enhanced 9–1–1 service from an entity with ownership or control over such capabilities, to comply with its obligations under subsection (a), shall, for the exclusive purpose of complying with such obligations, have a right of access to such capabilities, including interconnection, to provide 9–1–1 and enhanced 9–1–1 service on the same rates, terms, and conditions that are provided to a provider of commercial mobile service * * *, subject to such regulations as the Commission prescribes under subsection (c).
>
> (c) REGULATIONS.—The Commission—
>
> (1) within 90 days after the date of enactment of the [NET 911 Act] shall issue regulations implementing such Act, including regulations that—
>
> (A) ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b);
>
> (B) take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services; and
>
> (C) provide, with respect to any capabilities that are not required to be made available to a commercial mobile service provider but that the Commission determines under subparagraph (B) of this paragraph or paragraph (2) are necessary for an IP-enabled voice service provider to comply with its obligations under subsection (a), that such capabilities shall be available at the same rates, terms, and conditions as would apply if such capabilities were made available to a commercial mobile service provider.
>
> (2) shall require IP-enabled voice service providers to which the regulations apply to register with the Commission and to establish a point of contact for public safety and government officials relative to 9–1–1 and enhanced 9–1–1 service and access * * *

4. The ''requirements of the Federal Communications Commission, as in effect on the date of enactment of the [NET 911 Act]'' referenced in the legislation are set forth in the Commission's *VoIP 911 Order*. In that Order, the Commission required providers of ''interconnected VoIP service''—referred to as ''IP-enabled voice services'' in the NET 911 Act—to provide 911 service using the existing wireline 911 infrastructure. Congress has specified that ''[n]othing in the [NET 911 Act] shall be construed as altering, delaying, or otherwise limiting the ability of the Commission to enforce the Federal actions taken or rules adopted obligating an IP-enabled voice service provider to provide 9–1–1 or enhanced 9–1–1 service as of the date of the enactment of the [NET 911 Act].''

III. Discussion

5. In the discussion that follows, we seek comment on the specific duties imposed by the legislation and the elements of the regulations we are required to adopt. We ask about the capabilities for which the NET 911 Act affords IP-enabled voice service providers a right of access, how the Commission can ensure that IP-enabled voice service providers can exercise these rights, and how to provide that such capabilities are made available on the same rates, terms, and conditions that are provided to commercial mobile service providers. We also explore how the regulations we must adopt are impacted by requirements specific to IP-enable voice service providers. We seek comment, generally, on the questions and tentative conclusions below.

A. ''Capabilities''

6. The NET 911 Act states that IP-enabled voice service providers ''shall * * * have a right of access to such capabilities, including interconnection, to provide 9–1–1 and enhanced 9–1–1 service on the same rates, terms, and conditions that are provided to CMS providers.'' To what extent is it appropriate for the Commission to define ''capabilities'' in this rulemaking, or should we determine what constitutes ''capabilities'' on a case-by-case basis? To the extent a prospective determination is appropriate, we seek comment on the definition of

''capabilities.'' What would such a definition include and exclude? Are pseudo Automatic Number Identification (p-ANI), real-time Automatic Location Identification (ALI) database access, Emergency Service Numbers (ESN), Master Street Address Guides (MSAG), shell records, callback number, selective router interconnection for both voice and data transport, or other ''elements'' appropriately considered ''capabilities'' under the NET 911 Act? Do ''capabilities'' include network services, testing, and agreements? What other items, elements, features, functions, or agreements are appropriately considered capabilities? Because the NET 911 Act requires IP-enabled service providers to ''have a right of access'' to capabilities to provide 911 and enhanced 911 service ''on the same rates, terms, and conditions that are provided to a provider of commercial mobile service,'' we seek comment about what capabilities are currently required to be available to CMS providers. What, if any, capabilities ''are necessary for an IP-enabled voice service provider to comply with its obligations'' under section 6(a) of the Wireless 911 Act, but ''are not required to be made available to a commercial mobile service provider''?

7. With regard to mobile VoIP service used by CMRS carriers in conjunction with their CMRS service, we seek comment specifically on what capabilities ''are necessary for [such mobile interconnected VoIP] provider to comply with its obligations'' under section 6(a) of the Wireless 911 Act. Specifically, what requirements should be imposed on the mobile VoIP provider and its roaming partner when offering mobile VoIP service in a roaming area outside its CMRS footprint? For example, T-Mobile has asked the Commission to waive or rule on several requirements of the *VoIP 911 Order* for its interconnected VoIP service, which allows a customer to use a dual-mode handset that works as a regular CMRS phone and, when it is in a WiFi hotspot, an interconnected VoIP phone. Its service uses CMRS default routing for VoIP 911 calls and ''last known cell'' information for automatic location information in its footprint, but is not able to use such ''last known cell'' information outside the footprint because it is not provided by its roaming partner. Assuming that T-Mobile's use of CMRS default routing and associated ''last known cell'' information is sufficient, we seek comment on what modifications we should make to our rules when outside the footprint. For example, what requirements should be placed on the roaming partners of these dual-mode service providers to provide access to information necessary to employ ''last known cell'' in a roaming area in the same manner that dual-mode providers such as T-Mobile use such information when in its own network? Further, we seek comment generally on what capabilities we should require roaming partners to make available to mobile VoIP providers to ensure compliance with applicable 911 and E911 requirements. In addition, we seek comment on whether wireless carriers should be required pursuant to the NET 911 Act to provide roaming partners with last-known caller location information necessary for the proper routing of wireless VoIP calls to 911. We also seek comment on how such a requirement would affect incentives to reach roaming agreements and how the Commission can ensure that such a requirement would not prevent companies from forming roaming agreements they might otherwise reach.

B. Ownership, Control, Availability, and Right of Access

8. Who owns and controls each of the capabilities identified in response to the questions above? For each type of entity owning or controlling such capabilities, how should the Commission fulfill its statutory mandate to ''ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b)''? Does this mandate confer sufficient authority or jurisdiction upon the Commission to impose requirements on state, local or private entities? What other sources of authority or jurisdiction are available to the Commission to ensure that such capabilities are made available? Are there any additional actions the Commission should take to ensure that such capabilities are available per Congress's instructions? What are the implications of Congress's direction that IP-enabled voice service providers shall have a right of access to these capabilities ''for the exclusive purpose of complying with'' their obligations under the NET 911 Act?

C. Rates, Terms, and Conditions

9. The NET 911 Act requires that IP-enabled voice service providers receive a right of access to E911 network capabilities on the ''same rates, terms, and conditions'' as provided to CMS providers. Under what rates, terms, and conditions are such capabilities provided to CMS providers? To what extent are capabilities made available to CMS providers under tariff, interconnection agreement, or some other form of agreement? To what extent are the terms of such agreements available for review by other CMS providers or providers of IP-enabled voice service?

10. Assuming that similar capabilities have varying rates, terms, and conditions, how should the Commission determine what rates, terms, and conditions are to be placed on certain capabilities? Is it enough to mandate in our rules that those entities owning or controlling the capabilities needed for IP-enabled voice service providers provide such capabilities at the same rates, terms and conditions offered to CMS providers? Conversely, is it necessary to establish pricing standards for each of the capabilities that an IP-enabled voice service provider needs to meet the NET 911 Act's section 101(2) obligations? If so, what standards should apply? Can and should the Commission mandate disclosure of all rates, terms, and conditions concerning each capability from states, localities, and industry? How shall the Commission determine what rates, terms, and conditions would have been made available to CMS providers for capabilities that they do not use? Are there any other differences between CMS and IP-enabled voice service that we should consider with regard to the ''rates, terms, and conditions'' of access for IP-enabled voice service providers?

D. Technical, Network Security, or Information Privacy Requirements That Are Specific to IP-Enabled Voice Services

11. What technical, network security, or information privacy requirements specific to IP-enabled voice services must be taken into account when ensuring that capabilities are available to IP-enabled voice service providers? Are there any concerns that certain 911 systems may not offer the capabilities necessary particularly to meet the technical requirements of IP-enable voice services? If so, how should we take into account these requirements when adopting regulations for IP-enabled voice service providers? What network security issues do providers of IP-enabled voice services pose for the 911 and E911 networks? What steps can the Commission take to correct or ameliorate these concerns? With respect to information privacy, are there any issues specific to IP-enabled voice service providers that raise new concerns regarding the protection of customer proprietary network information? What steps should the Commission take to ensure IP-enabled voice service providers' customers' information is protected during and

after a 911 or E911 call? Should the Commission take any action at this time to require IP-enabled voice service providers to register with the Commission and to establish a point of contact for public safety and government officials relative to 911 and E911 service and access? If so, what steps would be appropriate?

E. Other Considerations

12. Finally, what other issues relating to the NET 911 Act should the Commission consider? Are there particular issues relating to the Commission's jurisdiction, federal, state, local and private initiatives, or other issues that the Commission should take into consideration when adopting rules? Should the Commission delegate authority to enforce any regulations issued under subsection (c) to State commissions or other State or local agencies or programs with jurisdiction over emergency communications? If so, what specifically should the Commission delegate and to which entity? What costs and burdens would rules resulting from the NPRM impose upon small entities and how can they be ameliorated? Are there any other issues or significant alternatives that the Commission should consider to ease the burden on small entities?

Initial Regulatory Flexibility Analysis

13. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities that might result from today's NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

14. In the NPRM, the Commission considers how to best make 911 capabilities available to IP-enabled voice service providers at the same rates, terms, and conditions available to commercial mobile service (CMS) providers. Specifically, the Commission seeks comments regarding its need to issue regulations within 90 days of NET 911 Act's enactment, including regulations that:

(A) Ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b);

(B) Take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services; and

(C) Provide, with respect to any capabilities that are not required to be made available to a commercial mobile service provider but that the Commission determines * * * are necessary for an IP-enabled voice service provider to comply with its obligations [to provide 911 service and enhanced 911 service], that such capabilities shall be available at the same rates, terms, and conditions as would apply if such capabilities were made available to a commercial mobile service provider.

For each of these issues, the Commission also seeks comment on the burdens, including those placed on small carriers, associated with corresponding Commission rules related to each issue and whether there are alternative rules that might lessen any burden.

B. Legal Basis

15. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 4(i)–(j), 201, 202, 222, 251, 252, 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 201, 202, 222, 251, 252, 303(r), and section 6 of the Wireless 911 Act, as amended.

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

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

1. Wireline Carriers and Service Providers

17. *Incumbent Local Exchange Carriers (ILECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were engaged in the provision of local exchange services. Of these 1,307 carriers, an estimated 1,019 have 1,500 or fewer employees and 288 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

18. *Competitive Local Exchange Carriers (CLECs).* Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.'' Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 859 carriers reported that they were engaged in the provision of either competitive local exchange carrier or competitive access provider services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are ''Other Local Service Providers.'' Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities that may be affected by our action.

19. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation

because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

20. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 184 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 181 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our action.

21. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 853 have 1,500 or fewer employees and 28 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

22. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 657 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 653 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by our action.

23. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 330 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 330 companies, an estimated 309 have 1,500 or fewer employees and 21 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by our action.

24. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our action.

25. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 104 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 102 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by our action.

26. *800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (''toll free'') subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use. According to our data, at the beginning of July 2006, the number of 800 numbers assigned was 7,647,941; the number of 888 numbers assigned was 5,318,667; the number of 877 numbers assigned was 4,431,162; and the number of 866 numbers assigned was 6,008,976. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, we estimate that there are 7,647,941 or fewer small entity 800 subscribers; 5,318,667 or fewer small entity 888 subscribers; 4,431,162 or fewer small entity 877 subscribers; and 5,318,667 or fewer small entity 866 subscribers.

2. Wireless Carriers and Service Providers

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

28. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category. Prior to that time, the SBA had developed a small business size standard for wireless firms within the now-superseded census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the first category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the second category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, using the prior categories and the available data, we estimate that the majority of wireless firms can be

considered small. According to Commission data, 432 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. We have estimated that 221 of these are small, under the SBA small business size standard. Thus, under this category and size standard, about half of firms can be considered small. This information is also included in paragraph 23.

29. *Common Carrier Paging.* The SBA has developed a small business size standard for Paging, under which a business is small if it has 1,500 or fewer employees. According to Commission data, 365 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 360 have 1,500 or fewer employees, and 5 have more than 1,500 employees. Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the *Paging Third Report and Order*, we developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

30. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, held in April 1997, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

31. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 432 carriers reported that they were engaged in the provision of wireless telephony. We have estimated that 221 of these are small under the SBA small business size standard.

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

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

34. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to ''Cellular and Other

Wireless Telecommunications'' companies. Under this category, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. The Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard.

35. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order,* we adopted a small business size standard for ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

36. *800 MHz and 900 MHz Specialized Mobile Radio Licenses.* The Commission awards ''small entity'' and ''very small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years, or that had revenues of no more than $3 million in each of the previous calendar years, respectively. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes, for purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities.

37. *700 MHz Guard Band Licensees.* In the *700 MHz Guard Band Order,* we adopted a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

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

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

40. *Aviation and Marine Radio Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations in this analysis, we estimate that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the above special small business size standards.

41. *Fixed Microwave Services.* Fixed microwave services include common

carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. We noted, however, that the common carrier microwave fixed licensee category includes some large entities.

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

43. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for ''very small business'' is: An entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by our action.

44. *Wireless Cable Systems.* Wireless cable systems use 2 GHz band frequencies of the Broadband Radio Service (BRS), formerly Multipoint Distribution Service (MDS), and the Educational Broadband Service (EBS), formerly Instructional Television Fixed Service (ITFS), to transmit video programming and provide broadband services to residential subscribers. These services were originally designed for the delivery of multichannel video programming, similar to that of traditional cable systems, but over the past several years licensees have focused their operations instead on providing two-way high-speed Internet access services. We estimate that the number of wireless cable subscribers is approximately 100,000, as of March 2005. Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. As described below, the SBA small business size standard for the broad census category of Cable and Other Program Distribution, which consists of such entities generating $13.5 million or less in annual receipts, appears applicable to MDS, ITFS and LMDS. Other standards also apply, as described.

45. The Commission has defined small MDS (now BRS) and LMDS entities in the context of Commission license auctions. In the 1996 MDS auction, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities. MDS licensees and wireless cable operators that did not receive their licenses as a result of the MDS auction fall under the SBA small business size standard for Cable and Other Program Distribution. Information available to us indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of $13.5 million annually. Therefore, we estimate that there are approximately 850 small entity MDS (or BRS) providers, as defined by the SBA and the Commission's auction rules.

46. Educational institutions are included in this analysis as small entities; however, the Commission has not created a specific small business size standard for ITFS (now EBS). We estimate that there are currently 2,032 ITFS (or EBS) licensees, and all but 100 of the licenses are held by educational institutions. Thus, we estimate that at least 1,932 ITFS licensees are small entities.

47. In the 1998 and 1999 LMDS auctions, the Commission defined a small business as an entity that has annual average gross revenues of less than $40 million in the previous three calendar years. Moreover, the Commission added an additional classification for a ''very small business,'' which was defined as an entity that had annual average gross revenues of less than $15 million in the previous three calendar years. These definitions of ''small business'' and ''very small business'' in the context of the LMDS auctions have been approved by the SBA. In the first LMDS auction, 104 bidders won 864 licenses. Of the 104 auction winners, 93 claimed status as small or very small businesses. In the LMDS re-auction, 40 bidders won 161 licenses. Based on this information, we believe that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

48. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carryover losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order,* we established a small business size standard for a ''small business'' as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A ''very small business'' is defined as an entity that,

together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. These size standards will be used in future auctions of 218–219 MHz spectrum.

49. *24 GHz—Incumbent Licensees.* This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of ''Cellular and Other Wireless Telecommunications'' companies. This category provides that such a company is small if it employs no more than 1,500 persons. We believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is our understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

50. *24 GHz—Future Licensees.* With respect to new applicants in the 24 GHz band, the small business size standard for ''small business'' is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. ''Very small business'' in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to the future auction, if held.

3. Satellite Service Providers

51. *Satellite Telecommunications.* Since 2007, the SBA has recognized satellite firms within this revised category, with a small business size standard of $13.5 million. The most current Census Bureau data, however, are from the (last) economic census of 2002, and we will use those figures to gauge the prevalence of small businesses in this category. Those size standards are for the two census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both prior categories, such a business was considered small if it had, as now, $13.5 million or less in average annual receipts.

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

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

4. Cable and OVS Operators

54. In 2007, the SBA recognized new census categories for small cable entities. However, there is no census data yet in existence that may be used to calculate the number of small entities that fit these definitions. Therefore, we will use prior definitions of these types of entities in order to estimate numbers of potentially affected small business entities. In addition to the estimates provided above, we consider certain additional entities that may be affected by the data collection from broadband service providers. Because section 706 requires us to monitor the deployment of broadband regardless of technology or transmission media employed, we anticipate that some broadband service providers will not provide telephone service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

55. *Cable and Other Program Distribution.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged as third-party distribution systems for broadcast programming. The establishments of this industry deliver visual, aural, or textual programming received from cable networks, local television stations, or radio networks to consumers via cable or direct-to-home satellite systems on a subscription or fee basis. These establishments do not generally originate programming material.'' The SBA has developed a small business size standard for Cable and Other Program Distribution, which is: All such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million. Thus, under this size standard, the majority of firms can be considered small.

56. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

57. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Industry data indicate that, of 1,076

cable operators nationwide, all but ten are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

58. *Open Video Services.* Open Video Service (OVS) systems provide subscription services. As noted above, the SBA has created a small business size standard for Cable and Other Program Distribution. This standard provides that a small entity is one with $13.5 million or less in annual receipts. The Commission has certified approximately 45 OVS operators to serve 75 areas, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 44 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

5. Electric Power Generation, Transmission and Distribution

59. *Electric Power Generation, Transmission, and Distribution.* The Census Bureau defines this category as follows: ''This industry group comprises establishments primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer.'' The SBA has developed a small business size standard for firms in this category: ''A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.'' According to Census Bureau data for 2002, there were 1,644 firms in this category that operated for the entire year. Census data do not track electric output and we have not determined how many of these firms fit the SBA size standard for small, with no more than 4 million megawatt hours of electric output. Consequently, we estimate that 1,644 or fewer firms may be considered small under the SBA small business size standard.

6. Internet Service Providers, Web Portals, and Other Information Services

60. In 2007, the SBA recognized two new small business, economic census categories. They are (1) Internet Publishing and Broadcasting and Web Search Portals, and (2) All Other Information Services. However, there is no census data yet in existence that may be used to calculate the number of small entities that fit these definitions. Therefore, we will use prior definitions of these types of entities in order to estimate numbers of potentially affected small business entities.

61. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs ''provide clients access to the Internet and generally provide related services such as Web hosting, Web page designing, and hardware or software consulting related to Internet connectivity.'' Under the SBA size standard, such a business is small if it has average annual receipts of $23 million or less. According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

62. *Web Search Portals.* Our action pertains to interconnected VoIP services, which could be provided by entities that provide other services such as e-mail, online gaming, Web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The Commission has not adopted a size standard for entities that create or provide these types of services or applications. However, the Census Bureau has identified firms that ''operate Web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format. Web search portals often provide additional Internet services, such as e-mail, connections to other Web sites, auctions, news, and other limited content, and serve as a home base for Internet users.'' The SBA has developed a small business size standard for this category; that size standard is $6.5 million or less in average annual receipts. According to Census Bureau data for 2002, there were 342 firms in this category that operated for the entire year. Of these, 303 had annual receipts of under $5 million, and an additional 15 firms had receipts of between $5 million and $9,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

63. *Data Processing, Hosting, and Related Services.* Entities in this category ''primarily * * * provid[e] infrastructure for hosting or data processing services.'' The SBA has developed a small business size standard for this category; that size standard is $23 million or less in average annual receipts. According to Census Bureau data for 2002, there were 6,877 firms in this category that operated for the entire year. Of these, 6,418 had annual receipts of under $10 million, and an additional 251 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

64. *All Other Information Services.* ''This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives).'' Our action pertains to interconnected VoIP services, which could be provided by entities that provide other services such as e-mail, online gaming, Web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $6.5 million or less in average annual receipts. According to Census Bureau data for 2002, there were 155 firms in this category that operated for the entire year. Of these, 138 had annual receipts of under $5 million, and an additional four firms had receipts of between $5 million and $9,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

65. *Internet Publishing and Broadcasting.* ''This industry comprises establishments engaged in publishing and/or broadcasting content on the Internet exclusively. These establishments do not provide traditional (non-Internet) versions of the content that they publish or broadcast.'' The SBA has developed a small

business size standard for this census category; that size standard is 500 or fewer employees. According to Census Bureau data for 2002, there were 1,362 firms in this category that operated for the entire year. Of these, 1,351 had employment of 499 or fewer employees, and six firms had employment of between 500 and 999. Consequently, we estimate that the majority of these firms small entities that may be affected by our action.

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

66. Any potential proposals from this NPRM will not impose reporting or recordkeeping requirements that would be subject to the Paperwork Reduction Act. Therefore, we have not attempted here to provide an estimate in terms of burden hours. Rather, we are asking commenters to provide the Commission with reliable information and comments on any costs and burdens on small entities.

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

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

68. As noted above, the NPRM invites comment on regulations that the Commission must implement 90 days after the 911 NET Act's enactment, including regulations that:

(A) Ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b);

(B) Take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services; and

(C) Provide, with respect to any capabilities that are not required to be made available to a commercial mobile service provider but that the Commission determines * * * are necessary for an IP-enabled voice service provider to comply with its obligations [to provide 911 service and enhanced 911 service], that such capabilities shall be available at the same rates, terms, and conditions as would apply if such capabilities were made available to a commercial mobile service provider.

69. Specifically, we invite comment regarding how the Commission could ease any potential burden on small entities. The Commission seeks comment on significant alternatives and recommends that small entities file comments in response to the NPRM. We anticipate that the record will be developed concerning alternative ways in which the Commission could lessen the burden on classes of carrier or entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

70. None.

Initial Paperwork Reduction Act of 1995 Analysis

71. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. *See* 44 U.S.C. 3506(c)(4).

Ordering Clauses

72. Accordingly, *it is ordered* that pursuant to the authority contained in sections 1, 4(i)–(j), 201, 202, 222, 251, 252, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 201, 202, 222, 251, 252, 303(r), and section 6 of the Wireless 911 Act, as amended, this Notice of Proposed Rulemaking *is adopted.*

73. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–20135 Filed 8–27–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 0612242967–7394–01]

RIN 0648–AS71

Fisheries in the Western Pacific; Pelagic Fisheries; Squid Jig Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would include three species of pelagic squid under Federal management, and establish permitting and reporting requirements for squid jig fishing vessels over 50 ft (15.4 m) in length. These vessels would also be required to carry Federal observers if requested by NMFS. This proposed rule is intended to improve monitoring and management of U.S. domestic pelagic squid fisheries in the western Pacific.

DATES: Comments on this proposed rule must be received by October 14, 2008.

ADDRESSES: Comments on the amendment, identified by 0648–AS71, may be sent to either of the following addresses:

- Electronic Submission: Federal e-Rulemaking Portal *www.regulations.gov*; or
- Mail: William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814–4700.

Instructions: All comments received are a part of the public record and will generally be posted to *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (if you wish to remain anonymous, enter ''NA'' in the required name and organization fields). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP), and proposed Amendment 15 including an environmental assessment (EA), are

available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIR, 808–944–2271.

SUPPLEMENTARY INFORMATION: This **Federal Register** document is also accessible at the Office of the Federal Register website: *www.gpoaccess.gov/fr*.

The pelagic fisheries of the U.S. western Pacific are managed under the Pelagics FMP, which was developed by the Council, and approved and implemented by NMFS. The Council has submitted Pelagics FMP Amendment 15 to NMFS for review under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This proposed rule would implement the management provisions recommended in Amendment 15, if approved by the Secretary of Commerce. Although no squid resource concerns have arisen to date, effective monitoring programs and mechanisms to implement management measures are both needed. To address these needs, the Council recommends in Amendment 15 improving data on U.S. squid fisheries through new permitting, monitoring and reporting requirements, as follows:

- Add three pelagic squid species to the pelagic management unit (neon flying squid, *Ommastrephes bartramii*, diamondback squid, *Thysanoteuthis rhombus*, and purple flying squid, *Sthenoteuthis oualaniensis*); and
- Require operators of U.S. vessels greater than 50 ft (15.4 m) in length overall that fish for pelagic squid in waters of the U.S. Exclusive Economic Zone (EEZ) of the western Pacific to:

i. obtain Federal permits;

ii. carry Federal observers if requested by NMFS; and

iii. report any western Pacific pelagic squid catch and effort either in Federal squid logbooks or via existing local reporting systems.

These measures, if implemented, would provide additional data and a mechanism for the Council and NMFS to effectively monitor and manage the U.S. domestic pelagic squid fisheries.

Pelagic squid are widely dispersed and short-lived, with relatively high reproduction rates. Thus, populations recover quickly following declines and are difficult to over-harvest with relatively inefficient fishing methods such as jigging. For example, stock abundance of neon flying squid in the central North Pacific was low in 1993, probably due to high fishing mortality from the high seas drift gillnet fishery. That fishery was banned in 1992, and the stocks quickly recovered and abundance was high during 1994–96. Stock abundance was again depressed in 1997 (the most prominent El Nino year in the last century), but was high in 1998. There is no evidence of over-harvesting of pelagic squid stocks on the high seas or in EEZ waters around U.S. islands in the western Pacific.

Pelagic squid are targeted by food and bait fisheries throughout the Pacific. They are a major component of the pelagic ecosystem, with large species preying on a variety of fish and invertebrate species, and smaller species providing important forage components for species such as swordfish and pilot whales. This ''keystone'' role of squid in the trophic web suggests that squid may be an important indicator of ecosystem dynamics. An international, large-scale, multi-species squid jigging fishery exists on the Pacific high seas, including foreign and a few U.S. fishing vessels. The Japanese jigging fleet was once dominant in the North Pacific, but is now rivaled by a growing Chinese fleet. The fishery is seasonal with most vessels switching to the Southern Hemisphere during the southern summer (October-February). Three U.S. squid jig vessels fished for squid in the North Pacific for a month or less in the summer of 2003, catching red flying squid on the high seas and offloading in Japan. Following a disappointing season, they moved to New Zealand waters for the 2003 summer/autumn squid season. To date, these domestic jigging vessels have fished on the high seas or in the waters of other nations, but there is a possibility of moving their fishing activities to U.S. EEZ waters around Hawaii in association with a shift in oceanic conditions. In addition to this large-vessel fishery, a few smaller vessels target purple flying squid with jigs near the Hawaiian Islands. This smaller fishery provides squid for the seafood market, and bait for the tuna handline fishery.

Although U.S. fisheries in the northern waters of the western Pacific catch a tiny fraction of the total international squid production, data provided by monitoring of these fisheries are, as yet, the only indicator available of squid stock status. The first issue to be addressed in the proposed rule is the need for improved information about U.S. squid jig fisheries. To effectively monitor and manage these fisheries, there is a need to ensure that U.S. catches of squid in the western Pacific are recorded accurately. For fishing on the high seas, the HSFCA requires catch reporting, but to date there has been no specific HSFCA logbook for squid jig fishing. Commercial landings of squid offloaded in Hawaii (regardless of where caught) are required to be reported on Hawaii state catch reports. Recreational catches landed in Hawaii are not subject to any reporting requirements (although recreational squid harvests are believed to be small and are not a concern to resource managers). With the exception of the Pacific remote island areas (PRIA), creel surveys are conducted in the other areas of the U.S. western Pacific to collect data on both commercial and recreational fishing activities. The information collected from these disparate programs have not been compiled for efficient analyses by resource scientists and managers.

U.S. squid jig vessels that fish only on the high seas in the western Pacific would be required to report their catch and effort using the Federal squid logbooks, pursuant to the reporting and recordkeeping provision of the High Seas Fishing Compliance Act (HSFCA). The reporting requirements of the HSFCA (50 CFR 300.17(b)(3)) provide the necessary regulatory authority for NMFS to require squid jig fishermen to use Federal logbooks that would be implemented under this proposed rule to meet the reporting requirements under both the HSFCA and the Magnuson-Stevens Act.

In addition to data needs, a second issue regarding the domestic squid jigging fishery is that there is no management mechanism to implement fishery regulatory controls, should concerns arise regarding squid stocks or other aspects of the fishery. Squid resources are healthy, the domestic fishery is relatively small, and there have been no observed or reported interactions with protected species or significant levels of bycatch. Thus, specific management measures (such as time or area closures, or effort or landing limits) are not being considered at this time. However, the establishment of mechanisms to implement management measures would allow for regulatory controls to be put in place if data collected indicate a future need for additional management measures.

To be considered, comments must be received by close of business on October 14, 2008, not postmarked or otherwise transmitted by that date.

In addition to soliciting public comments on this proposed rule, NMFS is soliciting comments on proposed Amendment 15 through October 10, 2008 as stated in the Notice of Availability published on August 11, 2008 (73 FR 46580). Public comments on this proposed rule, if received by October 10, 2008, will also be

considered in the approval/disapproval decision for Amendment 15. Comments received after that date will not be considered in the approval/disapproval decision for Amendment 15, but will be considered for this proposed rule.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pelagics FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Amendment 15 includes an EA that describes the existing squid fishery management and environment, and describes the potential environmental impacts of implementing the provisions of the preferred alternative. The EA tiers off a 2005 Final Environmental Impact Statement (2005 EIS) (70 FR 24038, May 6, 2005), and incorporates by reference the previous environmental impact analysis of the five alternatives considered in Amendment 15, specifically Alternative 1, the no-action alternative, Alternative 2, voluntary monitoring, Alternative 3, mandatory monitoring and management under the Pelagics FMP, Alternative 4, mandatory monitoring and management through a new squid FMP, and Alternative 5, mandatory monitoring and management through international agreements. All of the previous alternatives considered in the April 2005 EIS were coordinated with interested and affected parties. New information about future fishery management policies became available after the 2005 EIS was completed, and an additional alternative (Alternative 3a) was added and analyzed in the EA. Alternative 3a is similar to Alternative 3 in the 2005 EIS, but the revised alternative now contains provisions for mandatory Federal permits and logbooks reporting for vessels greater than 50 ft (15.4 m) in length that fish for squid in the U.S. EEZ waters of the western Pacific, and a requirement to carry Federal observers when requested by NMFS.

The purpose and need for the proposed action is to establish appropriate monitoring and management mechanisms for the domestic harvest of western Pacific pelagic squid. Based on the information in the EA and the 2005 EIS, as compared to the no-action alternative, preferred Alternative 3a would have no adverse impacts to essential fish habitat or habitat areas of particular concern. None of the action alternatives would be expected to change the impacts of U.S. vessels on squid resources in the short term, but impacts on the resource base could increase with higher future effort, so increasing fishery managers' understanding of the status of the stocks and fishing mortality would be an important outcome of this action. By including pelagic squid as management unit species under the preferred alternative, the foundation would be established for implementing control measures, should they become necessary. None of the action alternatives is anticipated to have any significant adverse impacts on seabird, sea turtle, or marine mammal populations because the fishery has a relatively low level of participation, and there have been no observed or reported interactions with protected resources in either the nearshore Hawaii squid fishery or the U.S. high seas squid jig fishery. The preferred alternative would provide for the sustained participation of fishing communities by helping to ensure the long-term availability of Pacific pelagic squid. The complete analysis of the alternatives is contained in the 2005 EIS and in Amendment 15, and is not repeated here. Copies of these two environmental analytical documents are available from the Council (see **ADDRESSES**).

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

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The analysis follows:

The Western Pacific Fishery Management Council (Council) prepared Amendment 15 to the Pelagics FMP. Amendment 15 recommends including three species of commercially-harvested pelagic squid (neon flying squid, purple flying squid, and diamondback squid) as pelagic management unit species. Amendment 15 would establish Federal permitting, data reporting, and observer requirements for squid jigging vessels over 50 ft (15.4 m) in length that fish in the U.S. EEZ of the western Pacific, or land these squid in ports of the region. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. This rule does not duplicate, overlap, or conflict with other Federal rules. There are no disproportionate economic impacts from this rule based on homeport, gear type, or relative vessel size. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. § 605(b), NMFS has determined that this rule will not have a significant economic impact on a substantial number of small entities based on the pre-existing status of pelagic squid fisheries within the U.S. EEZ of the central and western Pacific. All vessels having the potential to participate in this fishery are considered to be small entities under the current Small Business Administration definition of small fish-harvesting businesses (gross receipts not in excess of $ 4.0 million, independently owned and operated, and not dominant in their field).

This proposed rule would improve mandatory monitoring and establish mechanisms for management by including these squids in the management unit. This rule would require U.S. vessels greater than 50 ft (15.4 m) in length overall that fish for pelagic squid in U.S. Pacific EEZ to obtain Federal permits, to carry observers if requested by NMFS, and to report their catch and effort using either NMFS western Pacific squid jigging logbooks or existing local reporting systems. High seas squid harvests would be reported in the squid jigging logbooks. The fishery data would be centralized into a database easily available to resource scientists and managers.

An international, large-scale squid jigging fishery (multi-species) exists on the Pacific high seas. This includes both foreign and, until recently, a few domestic (U.S. flagged) fishing vessels. Three U.S. flagged squid jiggers fished for squid in the North Pacific in the summer of 2003, catching neon flying squid before traveling to the Southern Hemisphere. (The fishery is seasonal with most vessels switching to the Southern Hemisphere during the southern summer, October-February.) The operation consisted of a mother ship, 47 m long with 38 jigging machines, and holding up to 453,600 kg of squid, with a crew of 18. The other three boats ranged from 32–34 m in length. Each had 21–38 jigging machines, holding 204,100 to 386,000 kg of squid, with crews of 12. Blast freezers were installed on board all four boats. While squid catches as high as 8,000 kg per vessel per night have been reported by some operations, the recent domestic operation in the North Pacific caught a combined total of 20,253 kg of red flying squid for three vessels fishing over 22 days in 2003.

In addition, a small nearshore squid jigging fishery operating out of Kauai and a tuna handline fishery operating primarily from the Big Island of Hawaii have been known to target purple flying squid for food and/or bait. Although significant in the 1970s and 1980s, current participation in this fishery is now estimated to consist of only a few vessels. Nonetheless, due to shifts in both economic and oceanic conditions, there exists the potential for domestic squid jigging effort to shift from the high seas to the U.S. EEZ around Hawaii.

Economic impacts of the preferred alternative would have a slightly adverse economic impact in the requirement to pay a vessel permit fee of approximately $30. Using average prices for squid sold in Hawaii during the summer of 2003 ($1.81/lb), a permit fee of $30 represents only 0.15% of the average boat revenue for the known boats jigging for squid in the North Pacific during 2003. The largest potential impact to affected participants is the observer requirement for vessels greater than 50 ft (15.4 m) in length overall contained in the preliminarily

preferred alternative. Assuming that the costs of deploying (paying and feeding) observers would be paid by NMFS (as has been the case in the western Pacific region to date), vessel operators will still incur some indirect costs. Limited bunk or deck space may require vessel operators to reduce the number of crew in order to accommodate observers, resulting in a decrease in the operating efficiency of the remaining crew. There may be additional costs if vessel operators choose to carry additional liability insurance (beyond that provided by NMFS for its observers). These costs would vary between individual vessels depending on the insurance carriers' minimum allowed coverage period, and the coverage approach that is taken. The number of entities that will be required to carry observers is unknown as the appropriate level of observer coverage has not been determined, however, given that no vessels of this size have fished for pelagic squid in Pacific U.S. EEZ waters without landing them in the U.S.A. to date, this burden may be minimal. It is possible that a squid fishery observer program could operate on an intermittent basis if the low levels of bycatch and protected species interactions believed to occur are confirmed. The remaining aspects of the preferred alternative consist of the requirement for vessels greater than 50 ft (15.4 m) in length overall to obtain Federal permit and to either complete new Federal logbooks or to participate in local reporting systems.

Because there are no fishery-management controls associated with this measure that affect the operations of the fishery other than potentially carrying observers, significant impacts to the profitability of a substantial number of small entities are not anticipated and there will be no disproportionate impact between gear types, vessels or port of landing. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. The preferred alternative would require the owners of all U.S. vessels greater than 50 ft (15.4 m) in length that conduct commercial squid jig fishing for squid in U.S. EEZ waters around the islands of the western Pacific to obtain Federal fishing permits, and the vessel operators would be required to complete and submit Federal catch reports, or report via local reporting systems where such systems exist. Permit eligibility would not be restricted in any way, and the permit would be renewable on an annual basis.

NMFS anticipates that initial permit applications would require 0.5 hours per applicant, with renewals requiring an additional 0.5 hours annually. It is estimated that NMFS may receive and process up to 30 permit applications each year. Thus, the total collection-of-information burden to fishermen for permit applications is estimated at 15 hours per year. The cost for individual Federal permits has not been determined, but would represent only the administrative cost and is anticipated to be approximately $30 per permit.

NMFS anticipates the time requirement to complete Federal catch reports to be approximately 10 minutes per vessel per fishing day. Assuming that the 30 vessels fish during up to 100 days per year, the total collection-of-information burden estimate for fishing data reporting is estimated at 500 hours per year.

These estimates include the time for reviewing instructions, searching and compiling existing data sources, and completing and reviewing the collection information. Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimates; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to William L. Robinson (see **ADDRESSES**), and by email to *David__Rostker@omb.eop.gov* or by fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaii, Hawaiian Natives, Northern Mariana Islands, Pacific remote island areas, Reporting and recordkeeping requirements.

Dated: August 22, 2008.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 665 is proposed to be amended as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for part 665 continues to read as follows:

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

2. In § 665.12, amend the definition for ''Pacific Pelagic Management Unit Species,'' by adding three squid species to the end of the table, and add a definition for ''Squid jig fishing'' in alphabetical order to read as follows:

§ 665.12 Definitions.

* * * * *

Pacific Pelagic Management Unit Species * * *

Common name	Scientific name
* * *	* *
Squid:	
Diamondback squid	*Thysanoteuthis rhombus*
Neon flying squid	*Ommastrephes bartramii*
Purple flying squid	*Sthenoteuthis oualaniensis*

* * * * *

Squid jig fishing means fishing for squid that are Pelagic management unit species using a hook or hooks attached to a line that is raised and lowered in the water column by manual or mechanical means.

* * * * *

3. In § 665.13, revise paragraphs (f)(2)(i) through (f)(2)(v), and add a new paragraph (f)(2)(vi) to read as follows:

§ 665.13 Permits and fees.

* * * * *

(f) *Fees.* * * *

(2) * * *

(i) Hawaii longline limited access permit.

(ii) Mau Zone limited access permit.

(iii) Coral reef ecosystem special permit

(iv) American Samoa longline limited access permit.

(v) Main Hawaiian Islands non-commercial bottomfish permit.

(vi) Western Pacific squid jig permit.

* * * * *

4. In § 665.14, revise paragraph (a)(1) to read as follows:

§ 665.14 Reporting and recordkeeping.

(a) *Fishing record forms.* (1) *Applicability.* (i) The operator of any fishing vessel subject to the requirements of §§ 665.21, 665.41, 665.61(a)(2), 665.61(a)(3), 665.61(a)(4), 665.81, or 665.602 must maintain on board the vessel an accurate and complete record of catch, effort, and

other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional Administrator, except as allowed in paragraph (a)(1)(iii) of this section.

(ii) All information specified by the Regional Administrator must be recorded on paper or electronically within 24 hours after the completion of each fishing day. The logbook information, reported on paper or electronically, for each day of the fishing trip must be signed and dated or otherwise authenticated by the vessel operator in the manner determined by the Regional Administrator, and be submitted or transmitted via an approved method as specified by the Regional Administrator, and as required by this paragraph (a).

(iii) In lieu of the requirements in paragraph (a)(1)(i) of this section, the operator of a fishing vessel registered for use under a Western Pacific squid jig permit pursuant to the requirements of § 665.21(g) may participate in a state reporting system. If participating in a state reporting system, all required information must be recorded and submitted in the exact manner required by applicable state law or regulation.

* * * * *

5. In § 665.21, redesignate paragraphs (g) through (n) as paragraphs (h) through (o), and add a new paragraph (g) to read as follows:

§ 665.21 Permits.

* * * * *

(g) A vessel of the United States must be registered for use under a Western Pacific squid jig fishing permit, if that vessel is more than 50 ft (15.4 m) in length overall and is used to squid jig fish in EEZ waters around American Samoa, the CNMI, Guam, the Hawaiian Archipelago, or the PRIA.

* * * * *

6. In § 665.22 add new paragraph (zz) to read as follows:

§ 665.22 Prohibitions.

* * * * *

(zz) Use a vessel that is greater than 50 ft (15.4 m) in length overall to squid jig fish in EEZ waters around American Samoa, the CNMI, Guam, the Hawaiian Archipelago, or the PRIA, without a Western Pacific squid jig fishing permit registered for use with that vessel, in violation of § 665.21(g).

7. In § 665.23, revise paragraph (a), redesignate paragraphs (b) and (c) as paragraphs (d) and (e), and add new paragraphs (b) and (c) to read as follows:

§ 665.23 Notifications.

(a) The permit holder, or designated agent, for any vessel registered for use under a Hawaii longline limited access permit, or for any vessel greater than 40 ft (12.2 m) in length overall that is registered for use under an American Samoa longline limited access permit, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around the Hawaiian Archipelago or American Samoa. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder. The permit holder or designated agent for a vessel registered for use under Hawaii longline limited access permits must also provide notification of the trip type (either deep-setting or shallow-setting).

(b) The permit holder, or designated agent, for any vessel registered for use under a Western Pacific squid jig fishing permit that is greater than 50 ft (15.4 m) in length overall, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in Western Pacific waters. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder.

(c) For purposes of this section, the notice must be provided to the office or telephone number designated by the Regional Administrator. The notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the permit holder or designated agent to be available between 8 a.m. and 5 p.m. (local time) on weekdays for NMFS to contact to arrange observer placement.

* * * * *

[FR Doc. E8–20004 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 73, No. 168

Thursday, August 28, 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

[AMS–TM–08–0072; TM–08–09]

Notice of Agricultural Management Assistance Organic Certification Cost Share Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of funds availability.

SUMMARY: This notice invites the following eligible States: Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming, to submit an Application for Federal Assistance (Standard Form 424), and to enter into a Cooperative Agreement with the Agricultural Marketing Service (AMS) for the Allocation of Organic Certification Cost-Share Funds. The AMS has allocated $1.5 million for this organic certification cost-share program in Fiscal Year 2008. Funds will be available under this program to 16 designated States to assist organic crop and livestock producers certified under the National Organic Program (NOP). Eligible States interested in obtaining cost-share funds for their organic producers will have to submit an Application for Federal Assistance, and will have to enter into a cooperative agreement with AMS for the allocation of such funds.

DATES: Completed applications for federal assistance along with signed cooperative agreements must be received by close of business, September 15, 2008, in order to participate in this program.

ADDRESSES: Applications for federal assistance and cooperative agreements shall be requested from and submitted to: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, Room 4008–South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0264; Telephone: (202) 720–3252; Fax: (202) 205–7808. Additional information may be found through the National Organic Program's homepage at *http://www.ams.usda.gov/nop.*

FOR FURTHER INFORMATION CONTACT: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TM/NOP, Room 4008–South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0268; Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION: This Organic Certification Cost-Share Program is part of the Agricultural Management Assistance Program authorized under the Federal Crop Insurance Act (FCIA), as amended, (7 U.S.C. 1524). Under the applicable FCIA provisions, the Department is authorized to provide cost share assistance to producers in the States of Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. The AMS has allocated $1.5 million for this organic certification cost-share program in Fiscal Year 2008. This organic certification cost share program provides financial assistance to organic producers certified to the NOP authorized under the Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 *et seq.*). This program is in addition to and separate from the National Organic Certification Cost Share Program which is also administered by AMS and is open to all States and U.S. Territories.

To participate in the program, eligible States must complete a Standard Form 424, Application for Federal Assistance, and enter into a written cooperative agreement with AMS. The program will provide cost-share assistance, through participating States, to organic crop and livestock producers receiving certification or update of certification by a USDA accredited certifying agent from October 1, 2008 through September 30, 2009. The Department has determined that payments will be limited to 75 percent of an individual producer's certification costs up to a maximum of $750.00.

Authority: 7 U.S.C. 1524.

Dated: August 22, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–19921 Filed 8–27–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AC63

Forest Vegetation Resource Planning

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency interim directive; request for comment.

SUMMARY: The Forest Service is issuing an interim directive to Forest Service Handbook 1909.12, chapter 60, to guide agency employees on timber and forest vegetation resource planning, including guidance on identifying lands generally suitable for timber production and long-term sustained-yield capacity. This interim directive revises Forest Service Handbook 1902.12_60, issued January 31, 2006. The intended effect of issuance of this interim directive is to provide consistent overall guidance to Forest Service line officers and agency employees in developing, amending, or revising land management plans for units of the National Forest System regarding forest vegetation resource planning. Public comment is invited and will be considered in developing a final directive.

DATES: Interim directive number 1909.12–2008–1 is effective August 28, 2008. Comments must be received in writing by October 27, 2008.

ADDRESSES: Send written comments concerning this interim directive through one of the following methods: *E-mail: PlanningDirective2008@fs.fed.us.* Include ''planning directives'' in the subject line of the message. *Fax*: 202–205–1012. Please identify your comments by including ''planning directives'' on the cover sheet or the first page. *Mail*: Planning Directives; Forest Service; U.S. Department of Agriculture; Ecosystem Management Coordination; Mailstop 1104, 3rd Floor—Center Wing; Washington, DC

20250–1104. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. Persons wishing to inspect the comments are encouraged to call ahead (202–205–0895) to facilitate entrance into the building.

The directive is available electronically from the Forest Service via the World Wide Web/Internet at *www.fs.fed.us/im/directives* or at *www.fs.fed.us/emc/nfma/index.htm*. You may request a compact disc (CD) copy of the interim directive by contacting Regis Terney by e-mail (*rterney@fs.fed.us*), by phone at 1–866–235–6652 or 202–205–0895, or by mail at Regis Terney, Forest Service, U.S. Department of Agriculture, Mailstop 1104, EMC, 3 Central, 1400 Independence Avenue, SW., Washington, DC 20050–1104.

FOR FURTHER INFORMATION CONTACT: Regis Terney, Planning Specialist, Ecosystem Management Coordination Staff, 202–205–0895.

SUPPLEMENTARY INFORMATION: The Forest Service Directive System consists of the Forest Service Manual (FSM) and the Forest Service Handbook (FSH), which contain the Agency's policies, practices, and procedures and serve as the primary basis for the internal management and control of programs and administrative direction to Forest Service employees. The directives for all Agency programs are set out on the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.*

The FSM contains legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by Forest Service line officers and primary staff to plan and execute programs and activities, while the FSH is the principal source of specialized guidance and instruction for carrying out the policies, objectives, and responsibilities contained in the FSM.

The Forest Service, U.S. Department of Agriculture, issued final Agency directives for National Forest System Land Management Planning and published a notice of issuance of Agency final directives in the **Federal Register** (71 FR 5124, Jan. 31, 2006). The final Agency directives included FSH 1909.12, chapter 60, Forest Vegetation Resource Planning. On April 21, 2008, the Department replaced the 2005 final rule (2005 rule) (70 FR 1022, Jan. 5, 2005), as amended March 3, 2006 (71 FR 10837) with final planning regulations for the National Forest System at 36 CFR part 219, subpart A (73 FR 21468). This 2008 planning rule provides broad programmatic direction in developing and carrying out land management planning. The rule explicitly directs the Chief of the Forest Service to establish planning procedures in the Forest Service Directive System (36 CFR 219.1(c)).

This interim directive makes necessary minor changes to the January 31, 2006, directive to clarify the procedures for identifying lands available for timber harvest and suitable for timber production, long-term sustained-yield capacity (LTSYC), and timber sale program quantity (TSPQ) to aid consistent interpretation and application of the direction by Agency personnel. Our Washington Office review of several proposed land management plans showed that these clarifications are necessary. These changes in procedural and technical details associated with carrying out the 2008 planning rule at 36 CFR part 219 are needed immediately for use by units beginning plan revisions or resuming plan revisions under the 2008 rule. About 40 revision efforts are currently ongoing. The Forest Service expects 38 unit supervisors to use the 2008 planning rule to finish their plan revisions. In the next few months, many of these units will be discussing timber harvest availability, timber production suitability, LTSYC, and TSPQ with the public. It is imperative that these units use the proper procedures when discussing these important issues with the public.

Summary of Revisions

Section 60.5. This section of the directive provides definitions. The interim directive revises the term ''lands generally suited for timber harvest'' to be ''lands generally available for timber harvest.'' It revises the term ''not suitable for timber production'' to be ''lands not suitable for timber production.'' The interim directive changes the definitions for forest regulation, lands generally available for timber harvest, lands not suitable for timber production, long-term sustained-yield capacity, planning horizon, stand, and suitability. Throughout this interim directive, the Agency substitutes the word ''available'' for ''suitable'' when referring to the use of timber harvest as a tool. Suitability in NFMA refers to resource uses of land. NFMA specifically requires the identification of the suitability of lands for resource management in 16 U.S.C. 1604(g)(2)(A) and also the identification of lands not suited for timber production (a specific resource use) in 16 U.S.C. 1604(k). The use of the term ''available'' in referring to timber harvest is intended to reduce confusion over whether timber harvest is an objective (which it is not) or a tool to achieve specific resource uses or objectives (which it is). The interim directive changes the definition of ''forest regulation'' and ''stand'' to agree with silvicultural definitions in FSM 2470.5. The definition of ''lands generally available for timber harvest,'' ''lands not suitable for timber production,'' ''long-term sustained-yield timber capacity,'' ''planning horizon,'' and ''suitability'' are clarified to agree with the 2008 planning rule.

Section 61. This section of the directive describes the vegetation management requirements at the project level. The interim directive makes editorial changes so that restocking requirements will be consistently described in plans in terms of ''reasonable assurance of adequate restocking.''

Section 62. This section of the directive describes procedures for identifying the availability of lands for timber harvest and suitability of lands for timber production. The interim directive revises the term ''lands generally not suitable for timber harvest'' to be ''lands generally not available for timber harvest.'' The interim directive now provides two bases for identifying lands as not being available for timber harvest: (1) Legal, policy, physical, or biological conditions (the one basis set out in the current handbook), and (2) incompatibility with desired conditions and objectives. The second category sets forth a new, additional concept to consider when determining lands generally not available for timber harvest. The interim directive also clarifies categories of lands generally not available for timber harvest, lands generally available for timber harvest, and lands not suitable for timber production.

Section 62, exhibit 01. The interim directive changes the exhibit to conform to the revision and clarification of section 62.

Section 62.1. The interim directive changes the identification criteria of lands generally not available for timber harvest into a two-step process, so that incompatibility with desired conditions and objectives is a basis for identifying land as being not available for timber harvest even where legal, policy, physical, or biological criteria would not require such a determination.

Section 62.11. The interim directive also clarifies the identification of areas where timber harvest is generally prohibited by statute, Executive order, regulation, or policy. The interim directive clarifies that this category includes, but is not limited to,

congressionally designated wilderness and congressionally designated wilderness study areas.

Section 62.12. The interim directive adds a cross-reference to the planning rule and adds the phase ''or substantial and permanent impairment of the productivity of the land'' to the list of criteria for estimating where it is not possible to carry out timber harvest activities without irreversible damage.

Section 62.13. The interim directive revises the focus from ''identifying lands where there is reasonable assurance of restocking'' to ''where there is no reasonable assurance that the land can be adequately restocked.'' The interim directive clarifies that the determination is based on existing technology and research findings. The interim directive clarifies that the estimates of no reasonable assurance of adequate restocking made during land management planning must be refined during project-level analyses.

Section 62.2. At enumerated paragraph 1, clarifies that ''lands suitable for timber production'' are the same as ''lands where timber production achieves, is compatible with, or could contribute to the achievement of desired conditions and objectives established by the plan. Revises enumerated paragraph 2 to agree with the words of 36 CFR 219.12(a)(4) by changing the existing words of: ''Other lands where harvest for multiple-use objectives other than timber production, including salvage sales, may take place as described in section 62.22.'' to ''Other lands where trees may be harvested for multiple use values other than timber production as described in section 62.22.''

Section 62.21. Changes the caption from ''Timber Production Achieves or is Compatible With Desired Conditions and Resource Objectives'' to ''Lands Suitable for Timber Production.'' Adds two criteria to the enumerated criteria for lands suitable for timber production, (1) lands are not withdrawn by law or policy and (2) lands are forest land. Clarifies that regeneration of the timber stand is always intended for lands suitable for timber production. Removed the last sentence from this section about the planning documents describing why timber harvest is a cost-effective tool and added it to section 62.22.

Section 62.22. The interim directive clarifies the distinction between ''other lands'' (where trees may be harvested for multiple use values other than timber production) and ''lands suitable for timber production.''

Section 62.3. Removed the enumerated list of criteria for lands generally not suitable for timber production because it was redundant with the criteria at section 62.21.

Section 63.1. For simplicity changed the term ''timber production achieves or is compatible with desired conditions and resource objectives'' to ''lands suitable for timber production'' in this section and throughout the document. The interim directive revises direction for estimating the long-term sustained-yield capacity (LTSYC) by clarifying that LTSYC must not be constrained by current budgets. In addition, the interim directive sets forth that in those cases where a national forest has less than 200,000 acres of commercial forest land (FSH 2409.13, sec. 05) the responsible official may use two or more national forests for purposes of determining the LTSYC. The current directive limits the use of two or more national forests for determining LTSYC to where a national forest has less than 200,000 acres of lands suitable for timber production. This change in direction brings the interim directive in agreement with 16 U.S.C. 1611 and the long-standing definition of commercial forest land set forth in FSH 2409.13 (Timber Resource Planning Handbook). The interim directive also sets forth that if the responsible official decides a substantive change of the LTSYC estimate in the plan is needed, the responsible official shall amend or revise the plan.

Section 63.4. The interim directive clarifies that a substantive change of the timber sale program quantity (TSPQ) estimate in the approved land management plan must be changed by plan amendment or plan revision.

Section 63.5. To meet multiple-use objectives, the responsible official may establish a TSPQ that exceeds the LTSYC under 16 U.S.C. 1611. The interim directive clarifies that the responsible official may exceed the LTSYC limit when selling timber from salvage harvesting, sanitation harvesting, or from wood fiber not represented in the utilization standards used in calculating LTSYC. At enumerated paragraph 2, the interim directive changes the term ''timber production achieves or is compatible with desired conditions and resource objectives'' to ''lands suitable for timber production.'' The interim directive clarifies direction for assessing whether the TSPQ exceeds LTSYC by stating that responsible officials, at their discretion, may combine categories of lands generally available for timber harvest for assessing whether TSPQ exceeds LTSYC for the forest as a whole.

Section 64. The interim directive clarifies that a plan that contains lands available for timber harvest must include guidance developed pursuant to 36 CFR 219.12(b)).

Section 64.2. Clarifies that in some cases, even within lands suitable for timber production, timber harvest for purposes other than timber production may meet the ''adequate restocking'' requirement when the management intent is not to replace trees.

Section 64.3. The interim directive adds a requirement that land management plans must include guidance for maximum size limits under 36 CFR 219.12(b)(2).

Section 65.5. Changes the caption for section 65.5 to ''Plan Exhibits.''

Environmental Impact

This interim directive to Forest Service Handbook (FSH) 1909.12, chapter 60 would clarify direction and guide agency employees on timber and forest vegetation resource planning, including guidance on identifying lands generally suitable for timber production and long-term sustained-yield capacity. This interim directive supersedes Forest Service Handbook 1902.12_60, issued January 31, 2006. The intended effect of issuance of this interim directive is to provide consistent overall guidance to Forest Service line officers and agency employees in developing, amending, or revising land management plans for units of the National Forest System regarding forest vegetation resource planning. Section 31.12 of FSH 1909.15 (57 FR 43208; Sept. 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish servicewide administrative procedures, program processes, or instructions.'' The agency's conclusion is that this final directive, which simply sets out guidance for the planning process, falls within this category of actions and that no extraordinary circumstances exist as currently defined that require preparation of an environmental assessment or an environmental impact statement.

Regulatory Impact

This interim directive has been reviewed under USDA procedures and Executive Order 12866, Regulatory Planning and Review. It has been determined that this is not a significant action. This interim directive to clarify agency guidance would not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This interim directive would not interfere with an action taken or planned by another agency nor raise new legal or

policy issues. Finally, this interim directive would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed action is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, this proposed action has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities as defined by the act because it will not impose record-keeping requirements on them; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Agency has assessed the effects of this proposed action on State, local, and tribal governments and the private sector. This interim directive would not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Controlling Paperwork Burdens on the Public

This interim directive does not contain any additional record-keeping or reporting requirements associated with National Forest System land management planning or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. The Office of Management and Budget (OMB) (Number 0596–00158) has approved the information collection associated with the submitting an objection under the planning rule (36 CFR part 219). Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Conclusion

This interim directive provides consistent interpretation of the planning rule for line and staff officers, and interdisciplinary teams. Therefore, the Agency can fulfill its commitment to improve public involvement and decisionmaking associated with developing, amending, or revising a land management plan.

The full text of this handbook is available on the World Wide Web at *http://www.fs.fed.us./im/directives*. Single paper copies are available upon request from the address and telephone numbers listed earlier in this notice as well as from the nearest regional office, the location of which are also available on the Washington Office headquarters homepage on the World Wide Web at *http://www.fs.fed.us*.

Dated: August 21, 2008.

Abigail R. Kimbell,

Chief, Forest Service.

[FR Doc. E8–20013 Filed 8–27–08; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a briefing meeting and planning meeting of the Rhode Island Advisory Committee to the Commission will convene at 9:15 a.m. on Friday, September, 19, 2008, at the Rhode Island State House, Room 222, in Providence, Rhode Island. The purpose of the briefing meeting is to hear from law enforcement officials, government officials, advocacy groups and other members of the community on the issue of racial profiling. After the briefing the committee will have a planning meeting to further define its project on fair housing in Rhode Island.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by October 17, 2008. The address is Eastern Regional Office, 624 9th St., NW., Washington, DC 20425. Persons wishing to e-mail their comments, or who desire additional information should contact Alfreda Greene, Secretary, at 202–376–7533 or by e-mail to: *agreene@usccr.gov.*

Hearing-impaired persons who will attend the meetings and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meetings.

Records generated from these meetings may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov*, or to contact the Eastern Regional Office at the above e-mail or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, August 25, 2008.

Christopher Byrnes,

Chief, Regional Programs Coordination Unit.

[FR Doc. E8–19996 Filed 8–27–08; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the planning meeting of the Vermont Advisory Committee to the Commission will convene at 11 a.m. on Tuesday, September 16, 2008, at the Vermont Law School, Fiske Courtroom, Oakes Hall, 164 Chelsea Street, South Royalton, Vermont. The purpose of the meeting is to discuss the racial profiling report and to plan future activities.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by October 16, 2008. The address is the Eastern Regional Office, 624 9th Street, NW., Suite 740, Washington, DC 20425. Persons wishing to e-mail their comments, or who desire additional information should contact Alfreda Greene, Secretary, at 202–376–7533 or by e-mail to: *agreene@usccr.gov*.

Hearing-impaired persons who will attend the meetings and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meetings.

Records generated from these meetings may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov*, or to contact the Eastern Regional Office at the above e-mail or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, August 25, 2008.

Christopher Byrnes,

Chief, Regional Programs Coordination Unit.

[FR Doc. E8–19995 Filed 8–27–08; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT JUNE 24, 2008–AUGUST 7, 2008

Firm	Address	Date accepted for filing	Products
Metalworks Worldwide Inc.	3180 Berea Rd., Cleveland, OH 44111	6/24/2008	Stamped parts of steel and aluminum.
Driv-Lok, Inc.	1140 Park Avenue, Sycamore, IL 60178	7/28/2008	Metal fabricated press fit fasteners including pins, studs and dowels.
Washington Marble Works, Inc.	1016 Zchinder Street, Sumner, WA 98390.	7/31/2008	Granite countertops as well as fireplaces and other custom products made from tile, limestone, and travertine.
Metal Guru, Inc. dba Vicious Cycles	205 South Ohioville Road, New Paltz, NY 12561.	8/7/2008	Titanium and steel bicycles, and bicycle accessories. Paint and repaint services.
Master Tech Tool, Inc.	4539 Prime Parkway, McHenry, IL 60050-7000.	6/27/2008	Compression and plastic injection molds.
Electric Motors and Specialties, Inc.	701 W. King St., Garrett, IN 46738	6/27/2008	Unit bearing, cast iron electric motors.
Intronics, Inc.	1400 Providence Highway, Norwood, MA 02062.	6/30/2008	Standard and custom analog function modules.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Performance Evaluation, Room 7009, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal DomesticAssistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: August 19, 2008.

William P. Kittredge,

Program Officer for TAA.

[FR Doc. E8–19615 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ24

Incidental Takes of Marine Mammals During Specified Activities; Low-Energy Marine Seismic Surveys in the Santa Barbara Channel, November 2008

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 an application from the Scripps Institute of Oceanography (SIO) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting a seismic survey within the Santa Barbara Channel, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to authorize SIO to take, by Level B harassment only, small numbers of marine mammals incidental to conducting a marine seismic survey in November, 2008.

DATES: Comments and information must be received no later than September 29, 2008.

ADDRESSES: Comments on the application should be addressed to 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 e-mail comments is *PR1.0648-XJ24@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: Jaclyn Daly or Howard Goldstein, Office of Protected Resources, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by 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 taking shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [''Level A harassment'']; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [''Level B harassment'']].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of 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 June 27, 2008, NMFS received an application from SIO for the taking, by Level B harassment only, of small numbers of 16 species of marine mammals incidental to conducting a twelve-day, low-energy marine seismic survey within the Santa Barbara Channel, CA, in November 2008. The funding for this research survey is provided by the National Science Foundation (NSF).

The purpose of the proposed study is to test the feasibility of extending the paleoclimate record from Santa Barbara Basin established in 1992 and 2005 from ~700,000 years ago back to ~1.2 million years using detailed 3D modeling of the structure and outcrop stratigraphy of the northern shelf, to locate optimal core sites, and high-resolution multichannel seismic (MCS) reflection site surveys, test coring, and core analyses in the northern shelf and mid-channel areas. The planned seismic survey (including turns) will consist of approximately 600 km of survey lines using a standard 45-in^3 GI airgun and approximately 500 km of survey lines using a mini-sparker or boomer. The seismic surveys will identify subsequent optimal and safe coring strategies suitable for recovering a continuous paleoclimate record from the shallow marine sediments in Santa Barbara Basin in the future as part of the Integrated Ocean Drilling Program (IODP).

Description of the Specified Activity

The planned survey will involve one source vessel, the seismic ship R/V *Melville,* owned by the U.S. Navy and operated by SIO. The *Melville* is expected to depart San Diego and spend approximately 12 days conducting the survey and piston coring activities in November 2008. Seismic operations will be conducted during daylight hours only for 1–2 days at each of five sites encompassing the small area approximately 34–34.5° N, 119.5–120° W, north and northwest of Santa Cruz Island in the Santa Barbara Channel off southern California (see Figure 1 in SIO's application). The seismic program will consist of grids of closely-spaced lines in each of 5 survey areas. Line spacing will be 100–400 m. There will be additional operations associated with equipment testing, startup, line changes, and repeat coverage of any areas where initial data quality is sub-standard. Water depths in the survey area range from <50 m to ~580 m. The seismic survey will be conducted in the territorial waters of the U.S., partly in California state waters.

At three deeper-water sites outside state waters, a small 45-in^3 GI airgun will be used, but will likely be reduced to 25- or 35-in^3. At two shallow-water sites that cross into California state waters, a 1.5-kJ electromechanical boomer or a 2-kJ electric sparker system will be used, depending on water depth and seafloor conditions, and depending on which source provides the highest resolution and best sub-seafloor signal penetration. The two systems will not operate concurrently and, in general, the boomer source likely will be preferred. As the boomer, sparker, or GI airgun are towed along the survey lines, a towed 72-channel, 450 m hydrophone streamer will receive the returning acoustic signals and transfer the data to the on-board processing system. Given the relatively short streamer length behind the vessel, the turning rate of the vessel while the gear is deployed is much higher than the limit of five degrees per minute for a seismic vessel towing a streamer of more typical length (>1 km). Thus, the maneuverability of the vessel is not limited much during operations.

In addition to the GI airgun, sparker, and boomer, a towed chirp system, a multibeam echosounder (MBES), and a sub-bottom profiler (SBP) will be used at various times during the cruise. The chirp system will be used in tandem with the seismic sources, or will be used separately to locate optimal piston core sites, up to 4 hours at a time to a maximum of 8–10 hours per day. A 3.5-kHz SBP will be used to help verify seafloor conditions at possible coring sites, and will also be used in tandem with a MBES during transit to and from the Santa Barbara Channel area to collect additional seafloor bathymetric data.

Vessel Specifications

The *Melville* has a length of 85 m, a beam of 14.0 m, a maximum draft of 5.0 m, and can accommodate 23 crew and 86 scientists. Its gross tonnage is 2516 and is powered by two 1385-hp Propulsion General Electric motors and a 900-hp retracting Azimuthing bow thruster. The vessel will operate at a speed of ~7.4–8 km/h (4–4.3 knots) during seismic acquisition. When not towing seismic survey gear, the *Melville* cruises at 21.7 km/h (11.7 knots) and has a maximum speed of 25.9 km/h (14 knots). It has a normal operating range of approximately 18,630 km. The *Melville* will also serve as the platform from which vessel-based marine mammal observers will watch for marine mammals and sea turtles before and during airgun operations.

Acoustic Source Specifications

Seismic Airguns

The *Melville* will operate one small 45-in^3 GI airgun but will likely reduce the chamber size to 25–35-in^3. However, in case that is not possible, the specifications provided below are for a 45-in^3 GI airgun (Table 1). Seismic pulses will be emitted at intervals of 3 seconds. At a vessel speed of approximately 4 knots (7.4 km/h), the 3-s spacing corresponds to a shot interval of approximately 6 m.

If possible, the generator chamber of the GI airgun, the one responsible for introducing the sound pulse into the ocean, will be set to 25 in^3. The injector chamber also will be set to the same 25-in^3 size and will inject air into the previously generated bubble to maintain its shape. This does not introduce more sound into the water. The airgun will be towed 21 m behind the *Melville* at a depth of 2 m. The variation of the sound pressure field of that GI-gun set to its original 45-in^3 size and towed at a depth of 2.5 m has been modeled by L–DEO in relation to distance and direction from the GI airgun. At its reduced chamber size of 25 in^3, these numbers will be further reduced. For comparison, the peak source sound level of the 45-in^3 gun is 225.3 dB re 1 μ Pa, whereas the peak source sound level of a USGS GI airgun with chamber sizes reduced to 25 in^3 is approximately 218 dB re 1 μPa·m. More information on characteristics of airgun sounds can be found in Appendix A in the SIO's EA.

TABLE 1—SPECIFICATIONS OF GI-AIRGUN PROPOSED TO BE USED DURING THE SIO SEISMIC SURVEY, NOVEMBER 2008

GI-airgun specifications	
Energy source	GI airgun of 45 in^3 or GI airgun of 25 in^3
Source output (downward) (45 in^3)	0-pk is 1.8 bar-m (225.3 dB re 1 μPa·mp); pk-pk is 3.4 bar-m (230.7 dB re 1 μPa·mp-p).
Source output (downward) (25 in^3)	approx. 218 dB re 1 μPa·m$_p$.
Towing depth of energy source	2 meters.
Air discharge volume	approx. 45 in^3 or 25 in^3.
Dominant frequency components	0–188 Hz (45 in^3) or <500 Hz (25 in^3).

Electric Sparker

The *Melville* will use a minisparker system similar to the SQUID 2000™ sparker system manufactured by Applied Acoustic Engineering, Inc. This minisparker includes electrodes mounted on a small pontoon sled that simultaneously discharge electric current through the seawater to an electrical ground, creating an electrical arc that momentarily vaporizes water between positive and negative leads. The collapsing bubbles produce an omnidirectional pulse. The pontoon sled that supports the minisparker is towed on the sea surface, approximately 5 m behind the ship.

Source characteristics of the SQUID 2000™ provided by the manufacturer show a source level of 209 dB re 1 μPa$_{rms}$. This is at the full power level of 2 kJ. The power level of this source may be reduced to provide more consistent, reliable output signals if necessary. The amplitude spectrum of this pulse indicates that most of the sound energy lies between 150 Hz and 1700 Hz, and the peak amplitude is at 900 Hz. The output sound pulse of the minisparker has a duration of about 0.8 ms. When operated at sea for the proposed MCS-reflection survey, the minisparker will be discharged every 0.5–3 seconds.

Electromechanical Boomer

A boomer is a broad-band sound source operating in the 100–2500 Hz range. By sending electrical energy from the power supply through wire coils, spring-loaded plates in the boomer transducer are electrically charged causing the plates to repel, thus generating an acoustic pulse. The boomer planned for this cruise has three plates with a power input of 500 J per plate. The source level 219 dB re 1 μ Pa$_{peak}$; 209 dB re 1 μPa$_{rms}$ and the boomer will be towed on the surface. When operated at sea for the proposed MCS-reflection survey, the boomer will be discharged every 0.5–2 seconds.

Multibeam Echosounders and Sub-Bottom Profilers

Along with the seismic operations, two additional acoustical data acquisition systems will be operated during part of the R/V *Melville's* cruise but only in transit, not during airgun use. The ocean floor will be mapped with the 12-kHz Simrad EM120 multi-beam echosounder (MBES) in transit to the survey area, and a 3.5-kHz sub-bottom profiler (SBP) will also be operated along with the MBES and also to help verify sea floor conditions at possible coring sites.

The *Melville* will operate a Kongsberg-Simrad EM120 Multi Beam Echo Sounder (MBES). The Kongsberg-Simrad EM120 operates at 11.25–12.6 kHz, and is mounted in the hull of the *Melville*. It operates in several modes, depending on water depth. In the proposed survey, it will be used in automatic mode, changing from ''Shallow'' to ''Medium'' mode at 450 m and from ''Medium'' to ''Deep'' mode at 1000 m. In ''Shallow'' mode, the beamwidth is 2° fore-aft and the estimated maximum source level is 232 dB re 1 μPa$_{rms}$. Each ''ping'' consists of three successive fan-shaped transmissions, each 2 ms in duration with a delay of 3 ms between pulses for successive sectors. In ''Medium'' mode, the beamwidth is 1° or 2° fore-aft and the estimated maximum source levels are 232 or 226 dB re 1 μPa$_{rms}$. Each ''ping'' consists of three successive fan-shaped transmissions, each 5 ms in duration with a delay of 6 ms between pulses for successive sectors. In ''Deep'' mode, the beamwidth is 1° or 2° fore-aft and the estimated maximum source levels are 239 or 233 dB re 1 μPa$_{rms}$. Each ''ping'' consists of nine successive fan-shaped transmissions, each 15 ms in duration with a delay of 16 ms between pulses for successive sectors. The MBES will be used during transit to and from the Santa Barbara Channel area to collect additional sea floor bathymetric data.

In addition, an Edgetech 512i Chirp sub-bottom profiler (SBP) will also be a high resolution system that provides full-spectrum (''chirp'') imaging. The system is towed either at the water surface or slightly submerged, depending on the application and water depth. The 512i has a source level of 198 dB re 1 μPa$_{rms}$. It has a frequency range of 500 Hz–12 kHz with pulse widths from 5 ms to 50 ms depending on the application. The chirp system will be used in tandem with the seismic sources, or will be used separately to locate optimal piston core sites, up to 4 hours at a time to a maximum of 8–10 hours per day.

Safety Radii

To aid in estimating the number of marine mammals that are likely to be taken, pursuant to the MMPA, and in developing effective mitigation measures, NMFS applies certain acoustic thresholds that indicate the received level at which Level A or Level B harassment would occur in marine mammals where exposed.

The distance from the sound source at which an animal would be exposed to these different received sound levels may be estimated and is typically referred to as safety radii. These safety radii are specifically used to help NMFS estimate the number of marine mammals likely to be harassed by the proposed activity and in deciding how close a marine mammal may approach an operating sound source before the applicant will be required to power-down or shut down the sound source.

GI-Airguns

NMFS has established a 160 dB re 1 μPa_{rms} behavioral harassment (Level B) threshold for both cetaceans and pinnipeds and a 190 dB and 180 dB re 1 μPa_{rms} threshold for the potential onset of injury (Level A) for pinnipeds and cetaceans, respectively. Received sound levels have been modeled by Lamont-Doherty Earth Observatory of Columbia University (L–DEO) for a number of airgun configurations, including one 45-in^3 GI airgun, in relation to distance and direction from the GI airgun. The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI airgun where sound levels of 190, 180, 160 dB re 1 μPa_{rms} are predicted to be received in deep (>1000-m) water are shown in Table 2. Because the model results are for a 2.5-m tow depth, which is deeper than the proposed 2-m tow depth, the distances in Table 2 slightly overestimate safety and harassment isopleth distances.

Empirical data concerning the 180- and 160-dB distances were acquired based on measurements during the acoustic verification study conducted by L–DEO in the northern Gulf of Mexico from 27 May to 3 June 2003 (Tolstoy *et al.* , 2004). Although the results are limited, the data show that radii around the airguns where the received level would be 180 dB re 1 μPa_{rms}, the safety thresholds applicable to cetaceans (NMFS 2000), vary with water depth. Similar depth-related variation is likely in the 190-dB distances applicable to pinnipeds. Correction factors were developed for water depths 100–1000 m and <100 m. The empirical data indicate that, for deep water (>1000 m), the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.* , 2004). However, to be precautionary pending acquisition of additional empirical data, it is proposed that safety radii during GI airgun operations in deep water will be the values predicted by L–DEO's model. Therefore, the assumed 190- and 180 dB re 1 μ Pa radii are 8 m and 23 m, respectively, and the 160 dB radius for this depth is 330 m (Table 2).

Empirical measurements were not conducted for intermediate depths (100–1000m). On the expectation that results will be intermediate between those from shallow and deep water, a 1.5x correction factor is applied to the estimates provided by the model for deep water situations. This is the same factor that was applied to the model estimates during L–DEO cruises in 2003. The assumed 190 and 180 dB re 1 μ Pa radii in intermediate-depth water are 12m and 35m, respectively, and the 160 dB radius for this depth is 220m (Table 2). Additional information regarding how the safety radii were calculated and how the empirical measurements were used to correct the modeled numbers may be found in the SIO application and EA. The proposed survey using the GI airgun will occur only in depths approximately 150–580m; therefore the 12m, 35m, and 330m radii are applicable.

TABLE 2—DISTANCES TO WHICH SOUND LEVELS ≥190, 180, AND 160 DB RE 1 μPA_{rms} COULD BE RECEIVED FROM THE 45-IN^3 GI AIRGUN THAT WILL BE USED DURING THE SEISMIC SURVEYS IN THE SANTA BARBARA CHANNEL IN NOVEMBER 2008. DISTANCES ARE BASED ON MODEL RESULTS PROVIDED BY L–DEO

Water depth	Estimated distances (m) at received levels		
	190 dB	180 dB	160 dB
>1000m	8	23	220
100–1000m	12	35	330

Boomer/Sparker

Either the boomer or the mini sparker will be used in State waters. The boomer likely will be used and its source level is higher than that of the mini sparker; therefore, the propagation distances for the boomer will be used. Received sound levels from the boomer proposed for use in shallow water have not been modeled or measured. However, Burgess and Lawson (2001) measured received sound levels from a boomer with a source level of 203 dB re 1 μPa_{rms} in water depths 12–14m, and Greene (2006) measured received sound levels from a boomer with a source level of 188.8 dB re 1 μPa_{rms} in water depths 37–48m, both in the Alaskan Beaufort Sea. The distances at which sound levels 190-, 180-, and 160-dB re 1 μPa_{rms} were received are given in Table 3 together with the distances predicted using a spherical spreading model. In each case, more so for the larger source level, the modeled distance exceeded the measured distance. As a conservative (i.e., precautionary) measure, the modeled distances will be used to calculation take estimates. The source level of the boomer is $_p$, corresponding roughly to 209 dB re 1 $\mu Pa \cdot m_{rms}$. Based on the spherical spreading model, distances to which sound levels ≥190, 180, 170, and 160 dB re 1 μParms could be received from the boomer are 9, 28, 90, and 280, respectively (Table 3).

TABLE 3—DISTANCES TO WHICH RECEIVED SOUND LEVELS ≥190, 180, AND 160 DB RE 1 μPa_{rms} WERE MEASURED FOR TWO BOOMERS IN THE ALASKAN BEAUFORT SEA, AND DISTANCES PREDICTED BY A SPHERICAL SPREADING MODEL FOR THOSE SOURCES AND FOR THE BOOMER TO BE USED IN THE PROPOSED SURVEYS

Boomer source level (dB re 1 μPa·mrms) and distance	Estimated distances (m) at received levels		
	190 dB	180 dB	160 dB
203, measured	<1	2	22
203, modeled	4.5	16	140
188.8, measured	0.9	2.3	14.6
188.8, modeled	1	2.7	27.5
209 (this study), modeled	9	28	280

Description of Marine Mammals in the Activity Area

Thirty-two species of marine mammals, including 17 odontocetes, 8 mysticetes, 6 pinnipeds, and the southern sea otter (*Enhydra lutris*) could occur in the Santa Barbara Channel (SBC). In the U.S., sea otters are managed by the U.S. Fish and Wildlife Service (USFWS). The SIO is in the process of requesting consultation from the USFWS for impacts on sea otters; therefore, they will not be discussed further in this document. Of the 32 species, 20 are considered residents or regular visitors to the Channel Islands (CINMS), 14 of which are at least seasonally common to abundant in the SBC. The other 12 species are rare to extremely rare. Table 4 indicated relative abundance, density, habitat, status, and requested take for each species. Seven of the marine mammal species which could in the action area are endangered or threatened under the U.S. Endangered Species Act (ESA), including the North Pacific right whale (*Eubalaena japonica*), humpback whale (*Megaptera novaeangliae*), sei whale (*Balaenoptera borealis*), fin whale (*Balaenoptera physalus*), blue whale (*Balenoptera musculus*), sperm whale (*Physeter macrocephalus*), and southern resident killer whales (*Orcinus orca*). However, not all these species are expected to be harassed from the proposed seismic survey due to rarity in the area and the small harassment isopleth distances. Table 4 below outlines the species by the requested number of takes by both instances and individuals. Number of exposed individuals and number of exposures are listed with respect to the 160dB re 1 μPa threshold. Cetaceans and pinnipeds would not be exposed to sound levels at or above 180 and 190 dB, respectively, due to implementation of mitigation measures (see Proposed Mitigation section). For more information on the status, distribution, and seasonal distribution of species or stocks of marine mammals which could be in the action area, please refer to SIO's application, section IV.

TABLE 4—THE OCCURRENCE, HABITAT, REGIONAL ABUNDANCE, CONSERVATION STATUS, BEST AND MAXIMUM DENSITY ESTIMATES, NUMBER OF MARINE MAMMALS THAT COULD BE EXPOSED TO SOUND LEVEL AT OR ABOVE 160DB RE 1μPA, BEST ESTIMATE OF NUMBER OF INDIVIDUALS EXPOSED, AND BEST ESTIMATE OF NUMBER OF EXPOSURES PER MARINE MAMMAL IN OR NEAR THE PROPOSED SEISMIC SURVEY AREA IN THE SANTA BARBARA CHANNEL (SBC). SEE TABLES 3–5 IN SIO'S APPLICATION FOR FURTHER DETAIL

Species	Occurrence in SBC	Habitat	Abundance	ESA [1]	Density/ 1000km^2 (best)	Density/ 1000km^2 (max)	Number of individuals exposed	Number of exposures
North Pacific right whale.	Extremely rare; winter–spring vagrant.	Offshore, occasionally inshore.	100–200	EN	0	0	0	0
Gray whale	Common when migrating; rare Oct–Nov.	Coastal except near Channel Islands.	18,813	NL	0	0	0	0
Humpback whale	All year, common May–Jun, Sep–Dec.	Mainly nearshore waters and banks.	>6000	EN	0.22	0.33	0	0
Minke whale	All year, common spring–fall.	Pelagic and coastal.	9000	NL	0.36	0.54	0	0
Bryde's whale	Rare	Pelagic and coastal.	13,000	NL	0	0	0	0
Sei whale	Very rare	Mostly pelagic	7260–12,620	EN	0	0	0	0
Fin whale	Uncommon all year.	Slope, mostly pelagic.	13,620–18,680	EN	0.55	0.82	0	0
Blue whale	All year, common Jun-–ct.	Pelagic and coastal.	1186	EN	5.45	8.15	2	4
Sperm whale	Uncommon all year.	Usually deep pelagic.	24,000	EN	0.31	0.47	0	0
Pygmy sperm whale.	Uncommon all year.	Deep waters off shelf.	N.A.	NL	21.78	32.68	6	15
Dwarf sperm whale.	Very rare	Deep waters off shelf.	11,200	NL	0	0	0	0
Cuvier's beaked whale.	Rare all year	Slope and pelagic.	20,000	NL	1.44	2.16	1	1

TABLE 4—THE OCCURRENCE, HABITAT, REGIONAL ABUNDANCE, CONSERVATION STATUS, BEST AND MAXIMUM DENSITY ESTIMATES, NUMBER OF MARINE MAMMALS THAT COULD BE EXPOSED TO SOUND LEVEL AT OR ABOVE 160DB RE 1μPA, BEST ESTIMATE OF NUMBER OF INDIVIDUALS EXPOSED, AND BEST ESTIMATE OF NUMBER OF EXPOSURES PER MARINE MAMMAL IN OR NEAR THE PROPOSED SEISMIC SURVEY AREA IN THE SANTA BARBARA CHANNEL (SBC). SEE TABLES 3–5 IN SIO'S APPLICATION FOR FURTHER DETAIL—Continued

Species	Occurrence in SBC	Habitat	Abundance	ESA [1]	Density/ 1000km^2 (best)	Density/ 1000km^2 (max)	Number of individuals exposed	Number of exposures
Baird's beaked whale.	Rare all year	Slope and pelagic.	6000	NL	0	0	0	0
Mesoplodon spp. beaked whale.	Rare all year	Slope and pelagic.	1024	NL	0	0	0	0
Offshore bottlenose dolphin.	Common all year	Offshore, slope, shelf.	3257	NL	6.12	9.18	2	4
Coastal bottlenose dolphin.	Common all year	Within 1 km of shore.	323	NL	6.12	9.18	2	2
Striped dolphin ...	Rare	Off continental shelf.	1,824,000	NL	3.37	5.05	1	2
Short-beaked common dolphin.	Common all year	Shelf, pelagic, high relief.	487,622	NL	1364.41	2046.61	394	942
Long-beaked common dolphin.	Common all year	Coastal, high relief.	1893	NL	174.69	262.04	50	121
Pacific white-sided dolphin.	All year, common fall–winter.	Offshore, slope ..	931,000	NL	33	49.5	10	23
Northern right whale dolphin.	Common only winter, spring.	Slope, offshore waters.	15,305	NL	16.8	25.2	5	12
Risso's dolphin ...	Common all year	Shelf, slope, seamounts.	12,093	NL	18.35	27.53	5	13
Killer whale	Uncommon all year.	Widely distributed.	8500	NL	0	0	0	0
Short-finned pilot whale.	Rare all year	Mostly pelagic, high-relief.	160,200	NL	0	0	0	0
Dall's porpoise ...	Uncommon all year.	Shelf, slope, offshore.	57,549	NL	9.17	13.76	3	0
Harbor porpoise	Rare	Coastal	202,988	NL	0	0	0	0
Guadalupe fur seal.	Extremely rare ...	Coastal	7408	T	N/A	N/A	0	0
Northern fur seal	Uncommon all year.	Pelagic, offshore	721,935	NL	N/A	N/A	0	0
California sea lion.	Common all year	Coastal, shelf	238,000	NL	100	300	29	69
Steller sea lion ...	Rare all year	Coastal, shelf	44,584	T	N/A	N/A	0	0
Harbor seal	Common all year	Coastal	34,233	NL	N/A	N/A	0	0
Northern elephant seal.	All year, common Dec–Mar peak.	Coastal, pelagic when migrating.	124,000	NL	N/A	N/A	0	0

Species	Occurrence in SBC	Habitat	Abundance	ESA [1]	Number of exposures [2]	Number of individuals exposed [3]	Requested take [4]
North Pacific right whale.	Extremely rare; winter–spring vagrant.	Offshore, occasionally inshore.	100–200	EN	0	0	0
Gray whale	Common when migrating; rare Oct–Nov.	Coastal except near Channel Islands.	18,813	NL	0	0	0
Humpback whale	All year, common May–Jun, Sep–Dec.	Mainly nearshore waters and banks.	>6000	EN	0	0	2
Minke whale	All year, common spring–fall.	Pelagic and coastal	9000	NL	0	0	0
Bryde's whale	Rare	Pelagic and coastal	13,000	NL	0	0	0
Sei whale	Very rare	Mostly pelagic	7260–12,620	EN	0	0	0
Fin whale	Uncommon all year	Slope, mostly pelagic.	13,620–18,680	EN	0	0	2
Blue whale	All year, common Jun–Oct.	Pelagic and coastal	1186	EN	4	2	2
Sperm whale	Uncommon all year	Usually deep pelagic	24,000	EN	0	0	8
Pygmy sperm whale	Uncommon all year	Deep waters off shelf.	N.A.	NL	15	6	9

Species	Occurrence in SBC	Habitat	Abundance	ESA [1]	Number of exposures [2]	Number of individuals exposed [3]	Requested take [4]
Dwarf sperm whale	Very rare	Deep waters off shelf.	11,200	NL	0	0	0
Cuvier's beaked whale.	Rare all year	Slope and pelagic	20,000	NL	1	1	1
Baird's beaked whale.	Rare all year	Slope and pelagic	6000	NL	0	0	0
Mesoplodont beaked whale.	Rare all year	Slope and pelagic	1024	NL	0	0	0
Offshore bottlenose dolphin.	Common all year	Offshore, slope, shelf.	3257	NL	4	2	3
Coastal bottlenose dolphin.	Common all year	Within 1 km of shore	323	NL	4	2	3
Striped dolphin	Rare	Off continental shelf	1,824,000	NL	2	1	1
Short-beaked common dolphin.	Common all year	Shelf, pelagic, high relief.	487,622	NL	942	394	591
Long-beaked common dolphin.	Common all year	Coastal, high relief	1893	NL	121	50	76
Pacific white-sided dolphin.	All year, common fall–winter.	Offshore, slope	931,000	NL	23	10	14
Northern right whale dolphin.	Common only winter, spring.	Slope, offshore waters.	15,305	NL	12	5	7
Risso's dolphin	Common all year	Shelf, slope, seamounts.	12,093	NL	13	5	8
Killer whale	Uncommon all year	Widely distributed	8500	NL	0	0	0
Short-finned pilot whale.	Rare all year	Mostly pelagic, high-relief.	160,200	NL	0	0	0
Dall's porpoise	Uncommon all year	Shelf, slope, offshore.	57,549	NL	0	3	4
Harbor porpoise	Rare	Coastal	202,988	NL	0	0	0
Guadalupe fur seal	Extremely rare	Coastal	7408	T	0	0	0
Northern fur seal	Uncommon all year	Pelagic, offshore	721,935	NL	0	0	0
California sea lion	Common all year	Coastal, shelf	238,000	NL	69	29	87
Steller sea lion	Rare all year	Coastal, shelf	44,584	T	0	0	0
Harbor seal	Common all year	Coastal	34,233	NL	0	0	20
Northern elephant seal.	All year, common Dec–Mar peak.	Coastal, pelagic when migrating.	124,000	NL	0	0	0

[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed
[2] Best estimate as listed in Table 5 of the application
[3] Best estimate as listed in Table 5 of the application
[4] Requested number of takes as listed in Table 5 of application

Potential Effects of the Proposed Activity on Marine Mammals

Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007). Given the small size of the GI gun planned for the present project, effects are anticipated to be considerably less than would be the case with a large array of airguns. It is very unlikely that there would be any cases of temporary or, especially, permanent hearing impairment or any significant non-auditory physical or physiological effects. Also, behavioral disturbance is expected to be limited to relatively short distances. Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.*, 2007). With the possible exception of some cases of temporary threshold shift in harbor seals and perhaps some other seals, it is unlikely that the project would result in any cases of temporary or especially permanent hearing impairment, or any significant non-auditory physical or physiological effects. Some behavioral disturbance is expected, but is expected to be localized and short-term.

Tolerance

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. A summary of the characteristics of airgun pulses, is provided in Appendix A of NSF's EA prepared for this survey. Several studies have also shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response (tolerance) (see Appendix A of NSF's EA). That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times mammals of all three types have shown no overt reactions. In general, pinnipeds usually seem to be more tolerant of exposure to airgun pulses than cetaceans, with the relative responsiveness of baleen and toothed whales being variable.

Masking

Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal

by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.*, 1995).

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are very few specific data on this. Because of the intermittent nature (one pulse every 105 or 210 seconds) and low duty cycle of seismic pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in exceptional situations, reverberation occurs for much or all of the interval between pulses (e.g., Simard *et al.*, 2005; Clark and Gagnon, 2006) which could mask calls. Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls can usually be heard between the seismic pulses (e.g., Richardson *et al.*, 1986; McDonald *et al.*, 1995; Greene *et al.*, 1999; Nieukirk *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a,b, 2006). In the northeastern Pacific Ocean, blue whale calls have been recorded during a seismic survey off Oregon (McDonald *et al.*, 1995). Among odontocetes, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.*, 1994), but more recent studies found that they continued calling in the presence of seismic pulses (Madsen *et al.*, 2002c; Tyack *et al.*, 2003; Smultea *et al.*, 2004; Holst *et al.*, 2006; Jochens *et al.*, 2006). Dolphins and porpoises commonly are heard calling while airguns are operating (e.g., Gordon *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a,b; Potter *et al.*, 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking. In general, masking effects of seismic pulses are expected to be minor, given the normally intermittent nature of seismic pulses and the Melville being the only seismic vessel operating in the area for a limited time. Masking effects on marine mammals are discussed further in Appendix A of NSF's EA.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Based on NMFS (2001, p. 9293), NRC (2005), and Southall *et al.* (2007), it is assumed that simple exposure to sound, or brief reactions that do not disrupt behavioral patterns in a potentially significant manner, do not constitute harassment or ''taking,'' with ''potentially significant'' meaning ''in a manner that might have deleterious effects to the well-being of individual marine mammals or their populations''.

Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.*, 1995; Wartzok *et al.*, 2004; Southall *et al.*, 2007). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant. Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of industrial activities and exposed to a particular level of industrial sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

The sound criteria used to estimate how many marine mammals might be disturbed to some biologically-important degree by a seismic program are based primarily on behavioral observations of a few species. Detailed studies have been done on humpback, gray, bowhead (*Balaena mysticetus*), and sperm whales, and on ringed seals (*Pusa hispida*). Less detailed data are available for some other species of baleen whales, small toothed whales, and sea otters, but for many species there are no data on responses to marine seismic surveys.

Baleen Whales

Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable. Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, as reviewed in SIO's application and Appendix A of NSF's EA, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the cases of migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals. They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160–170 dB re 1 μPa (rms) seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Richardson *et al.*, 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4–15 km (2.5–9.3 mi) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong behavioral reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies, summarized in Appendix A(5) of SIO's EA, have shown that some species of baleen whales, notably bowhead and humpback whales, at times show strong avoidance at received levels lower than 160–170 dB re 1 μPa (rms).

Responses of humpback whales to seismic surveys have been studied during migration, on summer feeding grounds, and on Angolan winter breeding grounds; there has also been discussion of effects on the Brazilian wintering grounds. McCauley *et al.* (1998, 2000a) studied the responses of humpback whales off Western Australia to a full-scale seismic survey with a 16-airgun, 2678-in^3 array, and to a single 20-in^3 airgun with source level 227 dB re 1 μPa · m (peak to peak). McCauley *et al.* (1998) documented that avoidance reactions began at 5–8 km (3–5 mi) from the array, and that those reactions kept most pods approximately 3–4 km (1.8–2.5 mi) from the operating seismic boat. McCauley *et al.* (2000a) noted localized displacement during migration of 4–5 km (2.5–3.1 mi) by traveling pods and 7–12 km (4.3–7.5 mi) by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re 1 μPa (rms) for humpback pods containing females, and at the mean closest point of approach distance the received level was 143 dB re 1 μPa (rms). The initial avoidance response generally occurred at distances of 5–8 km (3.1–4.9 mi) from the airgun array and 2 km (1.2 mi) from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100–400

m (328–1312 ft), where the maximum received level was 179 dB re 1 μPa (rms).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64-L (100-in^3) airgun (Malme *et al.*, 1985). Malme *et al.* reported that some of the humpbacks seemed startled at received levels of 150–169 dB re 1 μPa and concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 re 1 μPa on an approximate rms basis. It has been suggested that South Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.*, 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.*, 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was ''no observable direct correlation'' between strandings and seismic surveys (IWC, 2007:236).

There are no data on reactions of right whales to seismic surveys, but results from the closely-related bowhead whale show that their responsiveness can be quite variable depending on their activity (migrating versus feeding). Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with substantial avoidance occurring out to distances of 20–30 km from a medium-sized airgun source at received sound levels of around 120–130 dB re 1 μPa (rms) (Miller *et al.*, 1999; Richardson *et al.*, 1999). However, more recent research on bowhead whales (Miller *et al.*, 2005; Harris *et al.*, 2007) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. Nonetheless, subtle but statistically significant changes in surfacing-respiration-dive cycles were evident upon statistical analysis (Richardson *et al.*, 1986). In summer, bowheads typically begin to show avoidance reactions at received levels of about 152–178 dB re 1 μPa (rms) (Richardson *et al.*, 1986, 1995; Ljungblad *et al.*, 1988; Miller *et al.*, 2005).

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding eastern Pacific gray whales to pulses from a single 100-in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re 1 μPa (rms). Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.*, 1984; Malme and Miles, 1985), and western Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.*, 1999; Gailey *et al.*, 2007; Johnson *et al.*, 2007; Yazvenko *et al.*, 2007a, b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Various species of *Balaenoptera* (blue, sei, fin, and minke whales) have occasionally been reported in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting vs. silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). In a study off Nova Scotia, Moulton and Miller (2005) found little difference in sighting rates (after accounting for water depth) and initial sighting distances of balaenopterid whales when airguns were operating versus silent. However, there were indications that these whales were more likely to be moving away when seen during airgun operations. Similarly, ship-based monitoring studies of blue, fin, sei and minke whales offshore of Newfoundland (Orphan Basin and Laurentian Sub-basin) found no more than small differences in sighting rates and swim directions during seismic vs. non-seismic periods Moulton *et al.*, 2005, 2006a,b).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A *in* Malme *et al.*, 1984; Richardson *et al.*, 1995; Angliss and Outlaw, 2008). The western Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.*, 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.*, 1987; Angliss and Outlaw, 2008).

Toothed Whales

Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above and (in more detail) in Appendix A of SIO's application have been reported for toothed whales. However, there are recent systematic studies on sperm whales (Jochens *et al.*, 2006; Miller *et al.*, 2006), and there is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (e.g., Stone, 2003; Smultea *et al.*, 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.*, 2006; Stone and Tasker, 2006; Potter *et al.*, 2007; Weir, 2008).

Seismic operators and marine mammal observers on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (e.g., Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.*, 2006; Stone and Tasker, 2006; Weir, 2008). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (e.g., Moulton and Miller, 2005). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (e.g., Stone and Tasker, 2006; Weir, 2008). In most cases the avoidance radii for delphinids appear to be small, on the order of 1 km less, and some individuals show no apparent avoidance. The beluga (*Delphinapterus leucas*) is a species that (at least at times) shows long-distance avoidance of seismic

vessels. Aerial surveys conducted in the southeastern Beaufort Sea during summer found that sighting rates of beluga whales were significantly lower at distances 10–20 km (6.2–12.4 mi) compared with 20–30 km (12.4–18.6 mi) from an operating airgun array, and observers on seismic boats in that area rarely see belugas (Miller *et al.*, 2005; Harris *et al.*, 2007).

Captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.*, 2000, 2002, 2005). However, the animals tolerated high received levels of sound before exhibiting aversive behaviors.

Results for porpoises depend on species. The limited available data suggest that harbor porpoises show stronger avoidance of seismic operations than do Dall's porpoises (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmek, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.*, 1995; Southall *et al.*, 2007).

Most studies of sperm whales exposed to airgun sounds indicate that the sperm whale shows considerable tolerance of airgun pulses (e.g., Stone, 2003; Moulton *et al.*, 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call (see Appendix A of NSF's EA for review). However, controlled exposure experiments in the Gulf of Mexico indicate that foraging behavior was altered upon exposure to airgun sound (Jochens *et al.*, 2006).

There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, northern bottlenose whales (*Hyperoodon ampullatus*) continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Laurinolli and Cochrane, 2005; Simard *et al.*, 2005). Most beaked whales tend to avoid approaching vessels of other types (e.g., Wursig *et al.*, 1998). They may also dive for an extended period when approached by a vessel (e.g., Kasuya, 1986). Thus, it is likely that beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly.

There are increasing indications that some beaked whales tend to strand when naval exercises involving mid-frequency sonar operation are ongoing nearby (e.g., Simmonds and Lopez-Jurado, 1991; Frantzis, 1998; NOAA and USN, 2001; Jepson *et al.*, 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the ''Strandings and Mortality'' subsection, later). These strandings are apparently at least in part a disturbance response, although auditory or other injuries or other physiological effects may also be a involved. Whether beaked whales would ever react similarly to seismic surveys is unknown (see ''Strandings and Mortality'', below). Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids and Dall's porpoises, seem to be confined to a smaller radius than has been observed for the more responsive of the mysticetes, belugas, and harbor porpoises (refer to Appendix A in NSF's EA). NMFS has established a 160 dB re 1 μPa disturbance threshold. Animals exposed to received sound levels at or above this threshold (but below injurious threshold) shall be considered ''taken'' by behavioral harassment (Level B).

Pinnipeds

Pinnipeds are not likely to show a strong avoidance reaction to the airgun array. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds, and only slight (if any) changes in behavior (Appendix A in NSF's EA). In the Beaufort Sea, some ringed seals avoided an area of 100 m (328 ft) to (at most) a few hundred meters around seismic vessels, but many seals remained within 100–200 m (328–656 ft) of the trackline as the operating airgun array passed by (e.g., Harris *et al.*, 2001; Moulton and Lawson, 2002; Miller *et al.*, 2005). Ringed seal sightings averaged somewhat farther away from the seismic vessel when the airguns were operating than when they were not, but the difference was small (Moulton and Lawson, 2002). Similarly, in Puget Sound, sighting distances for harbor seals and California sea lions tended to be larger when airguns were operating (Calambokidis and Osmek, 1998). Previous telemetry work suggests that avoidance and other behavioral reactions may be stronger than evident to date from visual studies (Thompson *et al.*, 1998). Even if reactions of any pinnipeds that might be encountered in the present study area are as strong as those evident in the telemetry study, reactions are expected to be confined to relatively small distances and durations, with no long-term effects on pinniped individuals or populations. As for cetaceans, the 160 dB or above disturbance threshold, but below injurious levels (190 dB), is considered appropriate for pinnipeds.

Hearing Impairment and Other Physical Effects

Temporary or permanent hearing impairment is a possibility when marine mammals are exposed to very strong sounds, and temporary threshold shift (TTS) has been demonstrated and studied in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.*, 2007). However, there has been no specific documentation of TTS let alone permanent hearing damage, i.e., permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions. Current NMFS policy regarding exposure of marine mammals to high-level sounds is that cetaceans and pinnipeds should not be exposed to impulsive sounds with received levels of 180 and 190 dB re 1 μPa_{rms} or above, respectively, are considered to have been taken incidentally taken by Level A harassment. (NMFS, 2000). These levels are precautionary and were used in establishing the exclusion (i.e., shut-down) zones planned for the proposed seismic survey.

Several aspects of the planned monitoring and mitigation measures for this project are designed to detect marine mammals occurring near the airgun array, and to avoid exposing them to sound pulses that might, at least in theory, cause hearing impairment. In addition, many cetaceans and (to a limited degree) pinnipeds and sea turtles are likely to show some avoidance or the area with high received levels of airgun sound. In those cases, the avoidance responses of the animals themselves will reduce or (most likely) avoid any possibility of hearing impairment.

Non-auditory physical effects might also occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that might (in theory) occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. It is possible that some

marine mammal species (i.e., beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, as discussed below, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. It is unlikely that any effects of these types would occur during the proposed project given the brief duration of exposure of any given mammal, the deep water in the survey area, and the planned monitoring and mitigation measures (see below). The following subsections discuss in somewhat more detail the possibilities of TTS, PTS, and non-auditory physical effects.

Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007).

For toothed whales exposed to single short pulses, the TTS threshold appears to be, to a first approximation, a function of the energy content of the pulse (Finneran *et al.*, 2002, 2005). Sound exposure level (SEL), which takes into account the duration of the sound, is the metric used to measure energy and uses the units dB re 1 $\mu Pa^2 \cdot s$, as opposed to sound pressure level (SPL), which is the pressure metric used in the rest of this document (units—dB re 1 μPa). Given the available data, the received energy level of a single seismic pulse (with no frequency weighting) might need to be approximately 186 dB re 1 μPa2 · s, (i.e., 186 dB SEL or approximately 196–201 dB re 1 μPa_{rms}) in order to produce brief, mild TTS. Exposure to several strong seismic pulses that each have received levels near 190 dB re 1 μPa_{rms} might result in cumulative exposure of approximately 186 dB SEL and thus slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy. The distances from the *Melville's* single airgun at which the received energy level (per pulse, flat-weighted) would be expected to be 190 dB re 1 μPa_{rms} or above, are shown in Table 2. Levels 190 dB re 1 μPa_{rms} or above are expected to be restricted to radii no more than 12m (39 ft) (Table 2) from the airgun at full chamber size (45 in^3). Again, this is a conservative safety zone since the applicant has indicated the airgun will likely be operated at 25–35 in^3. For an odontocete closer to the surface, the maximum radius with 190 dB re 1 μPa_{rms} or above, would be smaller.

The above TTS information for odontocetes is derived from studies on the bottlenose dolphin and beluga. There is no published TTS information for other types of cetaceans. However, preliminary evidence from a harbor porpoise exposed to airgun sound suggests that its TTS threshold may have been lower (Lucke *et al.*, 2007).

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales (Southall *et al.*, 2007). In any event, no cases of TTS are expected given three considerations: (1) The low abundance of baleen whales in most parts of the planned study area; (2) the strong likelihood that baleen whales would avoid the approaching airgun (or vessel) before being exposed to levels high enough for TTS to occur; and (3) the mitigation measures that are planned.

In pinnipeds, TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound have not been measured. Initial evidence from more prolonged (non-pulse) exposures suggested that some pinnipeds (harbor seals in particular) incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.*, 1999, 2005; Ketten *et al.*, 2001). The pinniped TTS threshold for pulsed sounds has been indirectly estimated as being a SEL of approximately 171 dB re 1 $\mu Pa^2 \cdot s$, (Southall *et al.*, 2007), which would be equivalent to a single pulse with received level of approximately 181–186 dB re 1 μPa_{rms}, or a series of pulses for which the highest rms values are a few dB lower.

Permanent Threshold Shift (PTS)

When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, while in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (Richardson *et al.*, 1995, p. 372*ff*). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage. Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time—see Appendix A of NSF's EA. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis, and probably greater than 6 dB (Southall *et al.*, 2007). On an SEL basis, Southall *et al.* (2007:441–4) estimated that received levels would need to exceed the TTS threshold by at least 15 dB for there to be risk of PTS. Thus, for cetaceans, they estimate that the PTS threshold might be an mammal-weighted (M-weighted) SEL (for the sequence of received pulses) of approximately 198 dB re 1 $\mu Pa^2 \cdot s$, (15 dB higher than the TTS threshold for an impulse), where the SEL value is accumulated over the sequence of pulses. Additional assumptions had to be made to derive a corresponding estimate for pinnipeds, as the only available data on TTS-thresholds in pinnipeds pertain to non-impulse sound. Southall *et al.* (2007) estimate that the PTS threshold could be a cumulative M_{pw}-weighted SEL of approximately 186 dB re 1 $\mu Pa^2 \cdot s$, in the harbor seal exposed to impulse sound. The PTS threshold for the California sea lion and northern elephant seal, the PTS threshold would

probably be higher, given the higher TTS thresholds in those species.

Southall *et al.* (2007) also note that, regardless of the SEL, there is concern about the possibility of PTS if a cetacean or pinniped received one or more pulses with peak pressure exceeding 230 or 218 dB re 1μPa (peak), respectively. A peak pressure of 230 dB re 1μPa (3.2 bar · m, 0-peak) would only be found within a few meters of the largest (360 in^3) airgun in the planned airgun array (Caldwell and Dragoset, 2000). A peak pressure of 218 dB re 1 μPa could be received somewhat farther away; to estimate that specific distance, one would need to apply a model that accurately calculates peak pressures in the nearfield around an array of airguns.

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals and sea turtles. The planned monitoring and mitigation measures, including visual monitoring, PAM, power downs, and shut downs of the airguns when mammals are seen within or approaching the exclusion zones, will further reduce the probability of exposure of marine mammals to sounds strong enough to induce PTS.

Non-Auditory Physiological Effects

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007). Studies examining such effects are limited. However, resonance (Gentry, 2002) and direct noise-induced bubble formation (Crum *et al.*, 2005) are not expected in the case of an impulsive source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.*, 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales, some odontocetes, and some pinnipeds, are especially unlikely to incur non-auditory physical effects. Also, the planned mitigation measures, including shut downs of the airguns, will reduce any such effects that might otherwise occur.

Strandings and Mortality

Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.*, 1993; Ketten, 1995). However, explosives are no longer used for marine seismic research or commercial seismic surveys, and have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of mass strandings of beaked whales with naval exercises and, in one case, an L–DEO seismic survey (Malakoff, 2002; Cox *et al.*, 2006), has raised the possibility that beaked whales exposed to strong pulsed sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (*e.g.*, Hildebrand, 2005; Southall *et al.*, 2007).

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include: (1) Swimming in avoidance of a sound into shallow water; (2) a change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma; (3) a physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and (4) tissue damage directly from sound exposure, such as through acoustically mediated bubble formation and growth or acoustic resonance of tissues. There are increasing indications that gas-bubble disease (analogous to the bends), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. However, the evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.*, 2006; Southall *et al.*, 2007).

Seismic pulses and mid-frequency sonar signals are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below 1 kHz. Typical military mid-frequency sonars emit non-impulse sounds at frequencies of 2–10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic surveys on marine mammals. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (*e.g.*, Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.*, 2003; Fernandez *et al.*, 2004, 2005; Hildebrand, 2005; Cox *et al.*, 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity pulsed sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.*, 2004) were not well founded (IAGC, 2004; IWC, 2007). In September 2002, there was a stranding of two Cuvier's beaked whales (*Ziphius cavirostris*) in the Gulf of California, Mexico, when the L–DEO vessel R/V *Maurice Ewing* was operating a 20-airgun, 8490-in^3 airgun array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of: (1) The

high likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels; (2) the proposed monitoring and mitigation measures; (3) the use of a single, low-energy airgun; and (4) differences between the sound sources operated by SIO and those involved in the naval exercises associated with strandings.

Potential Effects of Other Acoustic Devices

Multibeam Echosounder (MBES) Signals

The Simrad EM120 12-kHz MBES will be operated from the source vessel at some times during the planned study. Sounds from the MBES are very short pulses, occurring for 2–15 ms once every 5–20 s, depending on water depth. Most of the energy in the sound pulses emitted by this MBES is at frequencies near 12 kHz, and the maximum source level is 242 dB re 1 μPa_{rms}. The beam is very narrow (1 degree) in fore-aft extent and wide (150 degrees) in the cross-track extent. Each ping consists of nine successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the nine segments. Also, marine mammals that encounter the Simrad EM120 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 2–15 ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBES emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans (1) generally have a longer pulse duration than the Simrad EM120, and (2) are often directed close to omnidirectionally versus more downward for the Simrad EM120. The area of possible influence of the MBES is much smaller—a narrow band below the source vessel. The duration of exposure for a given marine mammal can be much longer for naval sonar. During SIO's operations, the individual pulses will be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of an MBES on marine mammals are outlined below.

Masking

Marine mammal communications will not be masked appreciably by the MBES signals given the low duty cycle of the echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the MBES signals (12 kHz) do not overlap with the predominant frequencies in the calls, which would avoid any significant masking.

Behavioral Responses

Behavioral reactions of free-ranging marine mammals to sonar, echosounders, and other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.*, 1985), increased vocalizations and no dispersal by pilot whales (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21–25 kHz sonar with a source level of 215 dB re 1μPa, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (Frankel, 2005). When a 38-kHz echosounder and a 150-kHz acoustic Doppler current profiler were transmitting during studies in the Eastern Tropical Pacific, baleen whales showed no significant responses, while spotted and spinner dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a white whale exhibited changes in behavior when exposed to 1-s tonal signals at frequencies similar to those that will be emitted by the MBES used by SIO, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.*, 2000; Finneran *et al.*, 2002; Finneran and Schlundt 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from an MBES.

Very few data are available on the reactions of pinnipeds to sonar sounds at frequencies similar to those used during seismic operations. Hastie and Janik (2007) conducted a series of behavioral response tests on two captive gray seals to determine their reactions to underwater operation of a 375-kHz multibeam imaging sonar that included significant signal components down to 6 kHz. Results indicated that the two seals reacted to the sonar signal by significantly increasing their dive durations. Because of the likely brevity of exposure to the MBES sounds, pinniped reactions are expected to be limited to startle or otherwise brief responses of no lasting consequence to the animals.

Hearing Impairments and Other Physical Effects

Given recent stranding events that have been associated with the operation of naval sonar, there is concern that mid-frequency sonar sounds can cause serious impacts to marine mammals (see above). However, the MBES proposed for use by SIO is quite different than sonar used for navy operations. Pulse duration of the MBES is very short relative to the naval sonar. Also, at any given location, an individual marine mammal would be in the beam of the MBES for much less time given the generally downward orientation of the beam and its narrow fore-aft beamwidth; navy sonars often use near-horizontally-directed sound. Those factors would all reduce the sound energy received from the MBES rather drastically relative to that from the sonar used by the navy.

Given the maximum source level of 242 dB re 1 μPa_{rms} (see § I), the received level for an animal within the MBES beam 100 m below the ship would be approximately 202 dB re 1 μPa_{rms}, assuming 40 dB of spreading loss over 100 m (circular spreading). Given the narrow beam, only one pulse is likely to be received by a given animal as the ship passes overhead. The received energy level from a single pulse of duration 15 ms would be about 184 dB re 1 $\mu Pa^2 \cdot s$, i.e., 202 dB + 10 log (0.015 s). That is below the TTS threshold for a cetacean receiving a single non-impulse sound (195 dB re 1 $\mu Pa^2 \cdot s$) and even further below the anticipated PTS threshold (215 dB re 1 $\mu Pa^2 \cdot s$) (Southall *et al.*, 2007). In contrast, an animal that was only 10 m below the MBES when a ping is emitted would be expected to receive a level ~20 dB higher, i.e., 204 dB re 1 $\mu Pa^2 \cdot s$ in the case of the EM120. That animal might incur some TTS (which would be fully recoverable), but the exposure would still be below the anticipated PTS threshold for cetaceans. As noted by Burkhardt *et al.* (2007, 2008), cetaceans are very unlikely to incur PTS from operation of scientific sonars on a ship that is underway.

In the harbor seal, the TTS threshold for non-impulse sounds is about 183 dB re 1 $\mu Pa^2 \cdot s$, as compared with ~195 dB re 1 $\mu Pa^2 \cdot s$ in odontocetes (Kastak *et*

al., 2005; Southall *et al.*, 2007). TTS onset occurs at higher received energy levels in the California sea lion and northern elephant seal than in the harbor seal. A harbor seal as much as 100 m below the *Melville* could receive a single MBES pulse with received energy level of ≥184 dB re 1 $\mu Pa^2 \cdot s$ (as calculated in the toothed whale subsection above) and thus could incur slight TTS. Species of pinnipeds with higher TTS thresholds would not incur TTS unless they were closer to the transducers when a sonar ping was emitted. However, the SEL threshold for PTS in pinnipeds (203 dB re 1 $\mu Pa^2 \cdot s$) might be exceeded for a ping received within a few meters of the transducers, although the risk of PTS is higher for certain species (e.g., harbor seal). Given the intermittent nature of the signals and the narrow MBES beam, only a small fraction of the pinnipeds below (and close to) the ship would receive a pulse as the ship passed overhead.

Sub-Bottom Profiler Signals

An SBP may be operated from the source vessel at times during the planned study. Sounds from the sub-bottom profiler are very short pulses, occurring for 1–4 ms once every second. Most of the energy in the sound pulses emitted by the SBP is at 3.5 kHz, and the beam is directed downward in a narrow beam with a spacing of up to 15 degrees and a fan width up to 30 degrees. The Edgetech 512i Chirp and Knudsen 320BR sub-bottom profilers on the *Melville* have a maximum source level of 198 and 211 dB re 1 $\mu Pa \cdot m$, respectively. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—even for an SBP more powerful than that on the *Melville* if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS.

Masking

Marine mammal communications will not be masked appreciably by the sub-bottom profiler signals given their directionality and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of most baleen whales, the SBP signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Reactions

Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the SBP are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the SBP are considerably weaker than those from the MBES. Therefore, behavioral responses would not be expected unless marine mammals were to approach very close to the source.

Hearing Impairment and Other Physical Effects

It is unlikely that the SBP produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The SBP is usually operated simultaneously with other higher-power acoustic sources. Many marine mammals will move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the SBP. In the case of mammals that do not avoid the approaching vessel and its various sound sources, mitigation measures that would be applied to minimize effects of other sources would further reduce or eliminate any minor effects of the SBP.

Estimated Take by Incidental Harassment

All anticipated takes would be ''takes by harassment'', involving temporary changes in behavior. The proposed mitigation measures are expected to minimize the possibility of injurious takes. (However, as noted earlier, there is no specific information demonstrating that injurious ''takes'' would occur even in the absence of the planned mitigation measures.) The sections below describe methods to estimate ''take by harassment'', and present estimates of the numbers of marine mammals that might be affected during the proposed SBC seismic program. The estimates of ''take by harassment'' are based on consideration of the number of marine mammals that might be disturbed appreciably by approximately 600 km of trackline, including turns, using the airgun and approximately 500 km of trackline using the sparker or boomer. The main sources of distributional and numerical data used in deriving the estimates are described below.

The anticipated radii of influence of the MBES and the SBP are less than those for the airgun array. It is assumed that, during simultaneous operations of the airgun array and echosounders, marine mammals close enough to be affected by the echosounders would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the echosounders, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the echosounders given their characteristics (e.g., narrow downward-directed beam) and other considerations described above. NMFS believes that such reactions are not considered to constitute ''taking.'' Therefore, no additional allowance is included for animals that might be affected by sound sources other than airguns, boomer, and sparker.

Extensive systematic aircraft- and ship-based surveys have been conducted for marine mammals off the U.S. west coast; the most comprehensive and recent density data available for cetacean species in shelf, slope, and offshore waters of California are from the 1991, 1993, 1996, 2001, and 2005 NMFS/SWFSC shipboard surveys as synthesized by Barlow and Forney (2007). The surveys were conducted up to approximately 550 km offshore from June or July to November or December. Densities are available for all of California in each of the five years, and for southern California (south of the latitude of Point Conception) for all years combined (Barlow and Forney, 2007), but not for southern California in each year except 2005 (Forney, 2007). Another set of surveys that included southern California was conducted by NMFS in the ETP during summer and fall 1986–1996, as summarized by Ferguson and Barlow (2001). Densities were calculated for 5° x 5° blocks; the partial block that includes the waters off southern California (Block 58) has its northern boundary at 35°N, just north of Point Conception. It extends off the coast as a wedge with a maximum distance of ~375 km offshore, and included 2925 km of survey effort in Beaufort sea states 0–5 and 600 km of survey effort in Beaufort sea states 0–2. We decided to use those density estimates because a smaller proportion of the waters surveyed were offshore. For two species expected to be common in the SBC but for which there were no sightings in Ferguson and Barlow (2001)—humpback whales and Dall's porpoise—the applicant estimated take using the 2005 densities for southern California in Forney (2007).

Systematic at-sea survey data for pinnipeds are more limited. The only densities to our knowledge are for California sea lions, and are based on ~31,000 km of aerial surveys of the SCB during 1975–1978, as summarized by Bonnell and Ford (1987). There are no density data, to our knowledge, for sea otters in the study area.

Oceanographic conditions, including occasional El Niño and La Niña events, influence the distribution and numbers of marine mammals present in the NEPO, including California, resulting in considerable year-to-year variation in the distribution and abundance of many marine mammal species (Forney and Barlow 1998; Buchanan *et al.* 2001; Escorza-Treviño 2002; Ferrero *et al.* 2002; Philbrick *et al.* 2003; Becker 2007). Thus, for some species the densities derived from recent surveys may not be representative of the densities that will be encountered during the proposed seismic survey.

The estimated numbers of individuals potentially exposed are presented below based on the 160-dB re 1 μPa_{rms} threshold for all cetaceans and pinnipeds. It is assumed that marine mammals exposed to seismic sounds this strong might change their behavior sufficiently to be considered ''taken by harassment''. It should be noted that the following estimates of exposures to various sound levels assume that the surveys will be fully completed; in fact, the planned number of line-kilometers has been increased by 25% to accommodate lines that may need to be repeated, equipment testing, etc. As is typical during ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated exclusion zone will result in the shutdown of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially expose to 160 dB re 1 μPa_{rms} sounds are precautionary, and probably overestimate the actual numbers of marine mammals that might be involved. These estimates assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

The number of different individuals that could be exposed to GI-gun or boomer sounds with received levels 160 dB re 1 μPa_{rms} on one or more occasions can be estimated by considering the total marine area that would be within the 160-dB radius around the operating seismic sources on at least one occasion along with the expected density of animals in the area. The proposed seismic lines run parallel to each other in close proximity; thus, an individual mammal may be exposed numerous times during the survey. The number of possible exposures to GI-gun and boomer sounds with received levels ≥160 dB re 1 μPa_{rms} (including repeated exposures of the same individuals) can be estimated by considering the total marine area that would be within the 160-dB radius around the operating seismic sources, including areas of overlap. However, it is unlikely that a particular animal would stay in the area during the entire survey. The number of potential exposures and the number of different individuals potentially exposed to ≥160 dB re 1 μPa_{rms} were calculated by multiplying: (1) The expected species density, either ''mean'' (i.e., best estimate) or ''maximum'', times; (2) the anticipated area to be ensonified to that level during seismic operations including overlap (exposures), or; (3) the anticipated area to be ensonified to that level during seismic operations excluding overlap (individuals).

The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo Geographic Information System (GIS), using the GIS to identify the relevant areas by ''drawing'' the applicable 160-dB buffer around each seismic line, and then calculating the total area within the buffers. Areas where overlap occurred (because of closely-spaced lines) were included when estimating the number of exposures, whereas the areas of overlap were included only once when estimating the number of individuals exposed.

Applying the approach described above, approximately 289 km^2 would be within the 160-dB isopleth on one or more occasions during the survey, whereas approximately 690 km^2 is the area ensonified to ≥160 dB when overlap is included. Thus, it is possible that an average individual marine mammal could be exposed up to two or three times during the survey. Because this approach does not allow for turnover in the mammal populations in the study area during the course of the survey, the actual number of individuals exposed may be underestimated, although the conservative (i.e., probably overestimated) line-kilometer distances used to calculate the area may offset this. Also, the approach assumes that no cetaceans will move away or toward the trackline as the *Melville* approaches in response to increasing sound levels prior to the time the levels reach 160 dB.

The best estimate of the number of individual marine mammals that could be exposed to seismic sounds with received levels ≥160 dB re 1 μPa_{rms} (but below Level A harassment thresholds) during the survey is 508 (Table 4). These estimates were derived from the best density estimates calculated for these species in the area (see Table 4 of SIO's application). However, SIO is requesting takes of marine mammals based on the maximum density estimates (see Table 4 in SIO's application) given that density data is not always precise, hence best and maximum estimates, and that these animals may be in the area. Requested number of marine mammals taken is listed in Table 4 below. In addition, the number of exposures those animals could be subjected to is also outlined. These numbers are based on trackline length, harassment isopleth distances, and density of animals. More information on how number of individuals and number of exposures were calculated can be found in SIO's application. Because the single 45 in^3 airgun will likely be operated at a reduced chamber size but exposures are based on maximum chamber size, NMFS believes that the ''best'' estimate of exposures is the most appropriate number to use. The best estimate of the total number of exposures of marine mammals to seismic sounds with received levels ≥160 dB re 1 μPa_{rms} during the survey is 1212, including four blue whale exposures, and one Cuvier's beaked whale exposure. The short-beaked common dolphin is estimated to be exposed most frequently, with a best estimate of 942 exposures.

Two of the six pinniped species listed in Table 4, the Guadalupe fur seal (*Arctocephalus townsendi*) and the Steller sea lion (*Eumetopias jubatus*), are rare in the SBC, and another two, the northern fur seal (*Callorhinus ursinus*) and northern elephant seal (*Mirounga angustirostris*), are not expected to occur there at the time of the proposed survey (November) because they are feeding offshore at that time. Densities are available for the California sea lion, the most abundant pinniped in the Channel Islands, but not for the harbor seal, which could be encountered during the survey. Therefore, allowances have been made in Table 4 for the exposure of a small number (20) of harbor seals to received sound levels ≥160 dB re 1 μPa_{rms}.

Potential Effects on Marine Mammal Habitat

The proposed seismic surveys will not result in any permanent impact on habitats used by marine mammals, or to the food sources they use. The main impact issue associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, as described above. The following sections briefly review effects of airguns on fish and invertebrates, and more details are

included in Appendices C and D, respectively, of NSF's EA, respectively.

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish populations is very limited (see Appendix C of NSF's EA). There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (e.g., startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes potentially could lead to an ultimate pathological effect on individuals (i.e., mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale. This makes drawing conclusions about impacts on fish problematic because ultimately, the most important aspect of potential impacts relates to how exposure to seismic survey sound affects marine fish populations and their viability, including their availability to fisheries.

The following sections provide a general synopsis of available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (see Hastings and Popper, 2005). Potential adverse effects of the program's sound sources on marine fish are then noted.

Pathological Effects—Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) The received peak pressure and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish and invertebrates would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.*, 1987; La Bella *et al.*, 1996; Santulli *et al.*, 1999; McCauley *et al.*, 2000a,b, 2003; Bjarti, 2002; Hassel *et al.*, 2003; Popper *et al.*, 2005).

The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question (see Appendix C of NSF's EA). For a given sound to result in hearing loss, the sound must exceed, by some specific amount, the hearing threshold of the fish for that sound (Popper 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population is unknown; however, it likely depends on the number of individuals affected and whether critical behaviors involving sound (e.g., predator avoidance, prey capture, orientation and navigation, reproduction, etc.) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have been presented in the peer-reviewed scientific literature. As far as we know, there are only two valid papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns with adverse anatomical effects. One such study indicated anatomical damage and the second indicated TTS in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of ''pink snapper'' (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only TTS (as determined by auditory brainstem response) in two of three fishes from the Mackenzie River Delta. This study found that broad whitefish (*Coreogonus nasus*) that received a sound exposure level of 177 dB re 1 $\mu Pa^2 \cdot s$ showed no hearing loss. During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airgun arrays [less than approximately 400 Hz in the study by McCauley *et al.* (2003) and less than approximately 200 Hz in Popper *et al.* (2005)] likely did not propagate to the fish because the water in the study areas was very shallow (approximately 9 m in the former case and <2 m in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate (the ''cutoff frequency'') at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988). Except for these two studies, at least with airgun-generated sound treatments, most contributions rely on rather subjective assays such as fish ''alarm'' or ''startle response'' or changes in catch rates by fishers. These observations are important in that they attempt to use the levels of exposures that are likely to be encountered by most free-ranging fish in actual survey areas. However, the associated sound stimuli are often poorly described, and the biological assays are varied (Hastings and Popper, 2005).

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.*, 1996; Dalen *et al.*, 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. Saetre and Ona (1996) applied a ''worst-case scenario'' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.*, 1994; McCauley *et al.*, 2000a, 2000b). The periods necessary for the biochemical changes to return to normal are variable, and depend on numerous aspects of the

biology of the species and of the sound stimulus (see Appendix C of NSF's EA).

Summary of Physical (Pathological and Physiological) Effects—As indicated in the preceding general discussion, there is a relative lack of knowledge about the potential physical (pathological and physiological) effects of seismic energy on marine fish and invertebrates. Available data suggest that there may be physical impacts on egg, larval, juvenile, and adult stages at very close range. Considering typical source levels associated with commercial seismic arrays, close proximity to the source would result in exposure to very high energy levels. Whereas egg and larval stages are not able to escape such exposures, juveniles and adults most likely would avoid it. In the case of eggs and larvae, it is likely that the numbers adversely affected by such exposure would not be that different from those succumbing to natural mortality. Limited data regarding physiological impacts on fish and invertebrates indicate that these impacts are short term and are most apparent after exposure at close range.

The SIO's proposed seismic survey is predicted to have negligible to low physical effects on the various life stages of fish and invertebrates for its short duration (approximately 25 days each in the Pacific Ocean and Caribbean Sea) and approximately 2,149-km of unique survey lines extent. Therefore, physical effects of the proposed program on fish and invertebrates would not be significant.

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (Chapman and Hawkins, 1969; Pearson *et al.*, 1992; Santulli *et al.*, 1999; Wardle *et al.*, 2001; Hassel *et al.*, 2003). Typically, in these studies fish exhibited a sharp ''startle'' response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

There is general concern about potential adverse effects of seismic operations on fisheries, namely a potential reduction in the ''catchability'' of fish involved in fisheries. Although reduced catch rates have been observed in some marine fisheries during seismic testing, in a number of cases the findings are confounded by other sources of disturbance (Dalen and Raknes, 1985; Dalen and Knutsen, 1986; Løkkeborg, 1991; Skalski *et al.*, 1992; Engås *et al.*, 1996). In other airgun experiments, there was no change in catch per unit effort (CPUE) of fish when airgun pulses were emitted, particularly in the immediate vicinity of the seismic survey (Pickett *et al.*, 1994; La Bella *et al.*, 1996). For some species, reductions in catch may have resulted from a change in behavior of the fish, e.g., a change in vertical or horizontal distribution, as reported in Slotte *et al.*, (2004).

In general, any adverse effects on fish behavior or fisheries attributable to seismic testing may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

For marine invertebrates, behavioral changes could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies of squid indicated startle responses (McCauley *et al.*, 2000a,b). In other cases, no behavioral impacts were noted (e.g., crustaceans in Christian *et al.*, 2003, 2004; DFO, 2004). There have been anecdotal reports of reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andriguetto-Filho *et al.*, 2005). Parry and Gason (2006) reported no changes in rock lobster CPUE during or after seismic surveys off western Victoria, Australia, from 1978–2004. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in question and the nature of the fishery (season, duration, fishing method). Additional information regarding the behavioral effects of seismic on invertebrates is contained in Appendix D in NSF's EA.

Summary of Behavioral Effects—As is the case with pathological and physiological effects of seismic on fish and invertebrates, available information is relatively scant and often contradictory. There have been well-documented observations of fish and invertebrates exhibiting behaviors that appeared to be responses to exposure to seismic energy (i.e., startle response, change in swimming direction and speed, and change in vertical distribution), but the ultimate importance of those behaviors is unclear. Some studies indicate that such behavioral changes are very temporary, whereas others imply that fish might not resume pre-seismic behaviors or distributions for a number of days. There appears to be a great deal of inter- and intra-specific variability. In the case of finfish, three general types of behavioral responses have been identified: Startle, alarm, and avoidance. The type of behavioral reaction appears to depend on many factors, including the type of behavior being exhibited before exposure, and proximity and energy level of sound source.

During the proposed study, only a small fraction of the available habitat would be ensonified at any given time, and fish species would return to their pre-disturbance behavior once the seismic activity ceased. The proposed seismic program is predicted to have negligible to low behavioral effects on the various life stages of the fish and invertebrates during its relatively short duration and extent.

Because of the reasons noted above and the nature of the proposed activities, the proposed operations are not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations or stocks. Similarly, any effects to food sources are expected to be negligible.

Proposed Monitoring

SIO proposes to sponsor marine mammal monitoring during the present project, in order to implement the proposed mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the Incidental Harassment Authorization. Vessel-based marine mammal visual observers (MMVOs) will be based on board the seismic source vessel, and they will watch for marine mammals and turtles near the vessel during seismic operations. MMVOs will also watch for marine mammals and turtles near the seismic vessel for at least 30 minutes prior to the start of seismic operations after an extended shutdown. When feasible, MMVOs will also make observations during daytime periods when the seismic system is not operating for comparison of animal abundance and behavior. Based on MMVO observations, the seismic source will be shut down when marine mammals are observed within or about to enter a designated exclusion zone (EZ). The EZ is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

MMVOs will be appointed by the academic institution conducting the research cruise, with NMFS Office of Protected Resources concurrence. At least one MMVO will monitor the EZ

during seismic operations. MMVOs will normally work in shifts of 4-hour duration or less. The vessel crew will also be instructed to assist in detecting marine mammals and turtles.

Standard equipment for marine mammal observers will be 7 × 50 reticule binoculars and optical range finders. At night, night-vision equipment will be available, although seismic activity will be restricted to daylight hours. The observers will be in wireless communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shut down.

Proposed Mitigation During Operations

Mitigation measures that will be adopted will include (1) Vessel speed or course alteration, provided that doing so will not compromise operational safety requirements, (2) GI-gun or boomer shut down within calculated exclusion zones, and (3) shut down at any range in the unlikely event that a North Pacific right whale or a concentration of sea otters is sighted. Two other standard mitigation measures—airgun array power down and airgun array ramp up—are not possible because only one, low-volume GI airgun, boomer, or sparker will be used for the surveys. In addition, avoidance of airgun operations over or near steep slopes or submarine canyons has become a standard mitigation measure, as these are places where beaked whales tend to concentrate. However, no such bathymetric features exist in the study area; therefore, this mitigation measure is not applicable to these surveys.

Speed or Course Alteration

If a marine mammal or turtle is detected outside the EZ but is likely to enter it based on relative movement of the vessel and the animal, then if safety and scientific objectives allow, the vessel speed and/or course will be adjusted to minimize the likelihood of the animal entering the EZ. Major course and speed adjustments are often impractical when towing long seismic streamers and large source arrays, but are possible in this case because only one small source and a short (450-m) streamer will be used.

Shut-Down Requirements and Procedures

If a marine mammal is detected outside the exclusion zones but is likely to enter the exclusion zone, and if the vessel's speed and/or course cannot be changed to avoid having the animal enter the exclusion zone, the seismic source will be shut down before the animal is within the exclusion zone. Likewise, if a mammal is already within the safety zone when first detected, the seismic source will be shut down immediately.

Following a shut down, seismic activity will not resume until the marine mammal or turtle has cleared the exclusion zone. The animal will be considered to have cleared the exclusion zone if it is visually observed to have left the exclusion zone; has not been seen within the zone for 10 min in the case of small odontocetes and pinnipeds; or has not been seen within the zone for 15 min in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales.

In the unanticipated event that any cases of marine mammal injury or mortality are judged to result from these activities, SIO will cease operating seismic airgun operation and report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Administrator, NMFS, immediately.

Proposed Reporting

MMVOs will record data to estimate the numbers of marine mammals and turtles exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment (as defined in the MMPA). They will also provide information needed to order a shutdown of the seismic source when a marine mammal or sea turtles is within or near the EZ.

When a sighting is made, the following information about the sighting will be recorded: Species, group size, and age/size/sex categories (if determinable); behavior when first sighted and after initial sighting; heading (if consistent), bearing, and distance from seismic vessel; sighting cue; apparent reaction to the seismic source or vessel (e.g., none, avoidance, approach, paralleling, etc.); and behavioral pace. In addition, time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare will also be recorded. This data (time, location, etc.) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding seismic source shutdown, will be recorded in a standardized format. Data accuracy will be verified by the MMVOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently. MMVO observations will provide the following information:

1. The basis for decisions about shutting down the seismic source.
2. Information needed to estimate the number of marine mammals potentially ''taken by harassment''. These data will be reported to NMFS and/or USFWS per terms of MMPA authorizations or regulations.
3. Data on the occurrence, distribution, and activities of marine mammals and turtles in the area where the seismic study is conducted.
4. Data on the behavior and movement patterns of marine mammals and turtles seen at times with and without seismic activity.

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals and turtles near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations, and all marine mammal and turtle sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the amount and nature of potential ''take'' of marine mammals by harassment or in other ways.

All injured or dead marine mammals (regardless of cause) must be reported to NMFS as soon as practicable. Report should include species or description of animal, condition of animal, location, time first found, observed behaviors (if alive) and photo or video, if available.

Endangered Species Act (ESA)

Under section 7 of the ESA, NSF has begun consultation with the NMFS, Office of Protected Resources, Endangered Species Division on this proposed seismic survey. NMFS will also consult on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of the IHA.

National Environmental Policy Act (NEPA)

NSF prepared an Environmental Assessment (EA) of a Marine Geophysical Survey by the R/V *Melville* in the Santa Barbara Channel, November 2008. NMFS will either adopt NSF's EA or conduct a separate NEPA analysis, as necessary, prior to making a

determination of the issuance of the IHA.

Preliminary Determinations

NMFS has preliminarily determined that the impact of conducting the seismic survey in the SBC may result, at worst, in a temporary modification in behavior (Level B Harassment) of small numbers of 26 species of marine mammals. This activity is expected to result in a negligible impact on the affected species or stocks. There are no subsistence uses of affected marine mammals in this area.

For reasons stated previously in this document, this determination is supported by: (1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious; (2) the fact that marine mammals would have to be closer than 35 m (114 ft) in water less than 1,000 m to be exposed to levels of sound which could result in Level A harassment (injury); (3) the 35 m distance is conservative as it is for the airgun opening at full chamber size (45 in^3) and the airgun will likely be operating at reduced chamber size; and (4) the marine mammal detection ability by trained observers is high at that very short distance from the vessel. As a result, no take by injury or death is anticipated, and the potential for temporary or permanent hearing impairment is very low and will be avoided through the incorporation of the proposed mitigation measures.

While the number of marine mammals potentially harassed will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small, less than a few percent of any of the estimated population sizes, and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to SIO for conducting a marine geophysical survey in the Santa Barbara Channel, November 2008, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 22, 2008.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–20014 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI06

Marine Mammal Authorization Program Integration of Registration for Selected West Coast Fisheries

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

ACTION: Notice; expansion of integrated registration program.

SUMMARY: NMFS is providing notice that it is increasing the number of fisheries for which the Marine Mammal Authorization Program (MMAP) registration is integrated with existing state and Federal fishery licensing and permitting programs, beginning with the 2009 List of Fisheries (LOF). NMFS is integrating MMAP registration at this time only for specific Category I or II fisheries regulated under fishery management plans (FMPs) administered by the Southwest Regional Office, or fisheries under permits issued by the state of California. Fishermen who participate in a Category I or II fishery for which registration is not integrated with existing state or Federal permitting programs must continue to register directly with NMFS through the MMAP.

ADDRESSES: For West Coast fisheries, registration information and marine mammal injury/mortality reporting forms may be obtained from the following regional office: NMFS, Southwest Region, Sustainable Fisheries Division, Attn: Lyle Enriquez, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Patricia Lawson, Office of Protected Resources, 301–713–2322; or Lyle Enriquez, Southwest Regional Office, 562–980–4025.

SUPPLEMENTARY INFORMATION: According to the Marine Mammal Protection Act (MMPA), all fishermen who participate in a Category I or II fishery listed in the annual LOF must be registered with a MMAP (section 118(c)(2)(A)). A fishery is classified on the LOF based on whether it has frequent (Category I), occasional (Category II), or remote (Category III) likelihood of incidental mortality and serious injury (or bycatch) of marine mammals. The MMAP provides an authorization for commercial fishermen which allows the incidental (i.e., non-intentional) taking of marine mammals pursuant to the MMPA during the course of commercial fishing operations. Participants in Category III fisheries are not required to register with the MMAP. Fishermen participating in any commercial fishery, regardless of category, are required to report all incidental injuries and mortalities of marine mammals to NMFS within 48 hours of returning from a fishing trip. For a complete description of requirements for fishermen participating in Category I, II, and III fisheries, please consult 50 CFR part 229, subpart A.

Rather than requiring all participants in Category I and II fisheries to register individually, the MMPA directs NMFS to integrate registration with existing state or Federal fishery permitting or licensing programs (section 118(c)(5)(A)). NMFS' goals for the integrated registration program include ensuring consistency in registration procedures across a greater number of fisheries, increasing the number of registrants to better reflect the level of participation in the fisheries, and conducting outreach to the fishing industry with regard to MMPA requirements. Using data from existing fishery licensing programs, the MMAP integration will reduce the registration burden on the fishing industry while facilitating the protection and conservation of marine mammals through increased outreach efforts. In a licensing system that is integrated with the MMAP, fishermen are not required to submit an MMAP registration/renewal form or the $25 processing fee to NMFS in order to receive or renew their MMAP Authorization Certificates.

NMFS will integrate the following fisheries that are managed under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*: the Coastal Pelagics FMP (California anchovy, mackerel, and sardine purse seine fishery) fisheries, and the Highly Migratory Species FMP (California pelagic longline, California tuna purse seine, and California/Oregon drift gillnet fisheries) fisheries. In order to integrate state-managed fisheries, NMFS is obtaining fishery license-holder information from the State of California. Category I and II state managed fisheries that NMFS will integrate include the California angel shark/halibut and other species set gillnet; and California squid purse seine fisheries. NMFS will make an annual

data request to the state of California for permit or license-holder information. Using this information, NMFS will mail MMAP Authorization Certificates, marine mammal injury/mortality reporting forms, and other program information to each permit or license-holder. Fishermen who participate in an integrated Category I or II state fishery do not need to take any additional action to register under the MMAP, as long as they hold a valid state fishing permit or license for the affected fishery. However, fishermen who participate in Category I or II state and/or Federal fisheries not yet integrated with the MMAP registration system (i.e., fisheries for which no Federal or state permits are required) must contact the NMFS, Southwest Regional Office, Sustainable Fisheries Division (see **FOR FURTHER INFORMATION CONTACT**), in order to register and receive an MMAP Authorization Certificate. If a fisherman participating in a Category I or II fishery, who expects to receive automatic registration, does not receive an Authorization Certificate by January 1 of each calendar year hereafter, the fisherman should contact NMFS (see **FOR FURTHER INFORMATION CONTACT**) to inquire about the status of his/her registration. Alternatively, he/she may apply for registration directly, following the procedures in 50 CFR 229.4(b). In any case, every fisherman fishing in a Category I or II fishery must have an Authorization Certificate.

NMFS will work with the permit-issuing agencies in each state to identify and attempt to limit mailing of Authorization Certificates to only those participants in Category I and II fisheries. Some permit systems, however, do not allow identification of fishermen using specific gear types in a way that matches the fishery designation referenced in the LOF. In cases where NMFS or the state permit-issuing agency cannot confidently determine which specific fishery identified in the LOF each fishermen participates in, based on the permit or license information, NMFS may inadvertently issue Authorization Certificates to fishermen participating in Category III fisheries. This approach, which may be confusing to Category III fishermen who are not required to be registered under the MMAP, is necessary to ensure that fishermen who must register with the MMAP are not unintentionally excluded from notification.

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

Dated: August 25, 2008.

Emily H. Menashes,

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

[FR Doc. E8–20006 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XK01

North Pacific 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 North Pacific Fishery Management Council's Crab Plan Team (CPT) will meet in Seattle, WA.

DATES: The meeting will be held on September 16–18, 2008, from 9 a.m. to 5 p.m.

ADDRESSES: Alaska Fishery Science Center, 7600 Sand Point Way NE. Bldg 4, Observer Room, Seattle, WA 98115.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Stram, North Pacific Fishery Management Council; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Plan Team will address the following issues: Overview of Crab Rationalization program; discussion of Economic Data review issues; summary of 3-year review documentation for Crab Rationalization Program; Structure and content for Economic Stock Assessment Fishery Evaluation Report (SAFE); NMFS 2008 summer trawl survey overview; NMFS catch accounting data; handling mortality rates utilized for Crab, Groundfish, and Scallop fisheries; Stock assessment overviews for Eastern Bering Sea snow crab, Bristol Bay red king crab, Eastern Bering Sea Tanner crab, St. Mathew Blue king crab, Norton Sound red king crab, Aleutian Island golden king crab, Pribilof Island red and golden king crab; Adak red king crab.

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 these meetings. 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 25, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–19953 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XK02

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council's (Council) Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BS/AI) groundfish plan teams will meet in Seattle, WA.

DATES: The meetings will be held September 22–24, 2008. The meetings will begin at 9 a.m. on Monday, September 22, and continue through Wednesday, September 24, 2008.

ADDRESSES: The meetings will be held a the Alaska Fisheries Science Center, 7600 Sand Point Way N.E., Building 4, Observer Training Room (GOA Plan Team) and Traynor Room (BS/AI Plan Team), Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Jane DiCosimo or Diana Stram, North Pacific Fishery Management Council; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: Agenda: Principal business is to prepare and review the draft Economic Report, the

draft Ecosystems Consideration Chapter, the draft stock assessments for some target-categories, and recommend preliminary groundfish catch specifications for 2008/09. Agenda posted on website at: *http://www.fakr.noaa.gov/npfmc/*.

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 these meetings. 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, (907) 271–2809, at least 5 working days prior to the meeting date.

Dated: August 25, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–19954 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XK00

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a joint meeting of its Executive and Finance Committees, a meeting of its Standard Operating, Policy and Procedure (SOPPs) Committee, Advisory Panel Selection Committee (Closed Session), Joint Ecosystem-based Management and Habitat Committees, Shrimp Committee, Spiny Lobster Committee, Snapper Grouper Committee, Southeast Data, Assessment, and Review (SEDAR) Committee, Allocation Committee, Limited Access Privilege (LAP) Program Committee, Dolphin Wahoo Committee, a joint meeting of its Golden Crab Advisory Panel and Deepwater Shrimp Advisory Panel, and a meeting of the full Council.

The Council will also hold a public comment session regarding: Amendment 7 to the Shrimp Fishery Management Plan (FMP) addressing rock shrimp endorsements and economic reporting for the shrimp fishery; a Generic Import Amendment for the Spiny Lobster FMP addressing requirements for imported spiny lobster; Amendment 16 to the Snapper Grouper FMP addressing measures to end overfishing for gag grouper and vermilion snapper and interim allocations of these two species for commercial and recreational fisheries; and Interim Rule measures to address overfishing of red snapper and other snapper grouper complex species. See **SUPPLEMENTARY INFORMATION** for additional details.

DATES: The meeting will be held in September 2008. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Charleston Marriott, 170 Lockwood Boulevard, Charleston, SC 29403; telephone: (800) 968–3569 or (843) 723–3000. Copies of documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366 or toll free at (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION:

Meeting Dates:

1. Joint Golden Crab Advisory Panel and Deepwater Shrimp Advisory Panel Meeting: September 15, 2008, 1 p.m. until 5:30 p.m. (Concurrent Session)

The Golden Crab and Deepwater Shrimp Advisory Panels will review alternatives for Allowable Golden Crab Fishing Areas and Shrimp Fishery Access Areas within the proposed deepwater Coral Habitat Areas of Particular Concern. In addition the Deepwater Shrimp AP will discuss proposed alternatives in the draft Shrimp Amendment 7 document pertaining to the rock shrimp fishery.

2. Council Session: September 15, 2008, 1 p.m. until 2:30 p.m.

The Council will meet in full session to receive a report from the Allocation Committee from its July 8–9, 2008 meeting. The Council will consider Committee recommendations and take action as appropriate.

3. Joint Executive/Finance Committees Meeting: September 15, 2008, 2:30 p.m. until 4 p.m.

The Executive and Finance Committees will meet to review the status of the Calendar Year 2008 Activities Schedule and budget, the status of the Fiscal Year 2009 budget, and discuss the benefits of establishing a Council Data Collection Improvement Committee.

4. SOPPs Committee Meeting: September 15, 2008, 4 p.m. until 5 p.m.

The SOPPs Committee will receive an update on the status of the Secretarial review of the Council's SOPPs and develop changes to the SOPPs if necessary.

5. Advisory Panel Selection Committee Meeting (Closed Session): September 15, 2008, 5 p.m. until 6 p.m.

The Advisory Panel Selection Committee will meet in Closed Session to review applications and develop recommendations for Council consideration.

6. Joint Ecosystem-based Management and Habitat Committees Meeting: September 16, 2008, 8 a.m. until 12 noon.

The Ecosystem-based Management and Habitat Committees will review the Fishery Ecosystem Plan (FEP) and approve the FEP for a second round of public hearings. The Committees will discuss recommendations from the Joint Golden Crab and Deepwater Shrimp Advisory Panels, Review the Comprehensive Ecosystem Amendment (CEA) addressing the designation of Deepwater Coral Habitat Areas of Particular Concern, and approve the CEA for a second round of public hearings. The Committees will also discuss the proposal for a National Monument off the southeast coast and other habitat-related issues.

7. Shrimp Committee Meeting: September 16, 2008, 1:30 p.m. until 2:30 p.m.

The Shrimp Committee will review advisory panel and public hearing comments received on Amendment 7 to the Shrimp FMP, modify Amendment 7 if necessary, and develop a recommendation for submitting Amendment 7 for formal Secretarial review and approval.

8. Spiny Lobster Committee Meeting: September 16, 2008, 2:30 p.m. until 3:30 p.m.

The Spiny Lobster Committee will review public hearing comments, advisory panel comments, and actions by the Caribbean Fishery Management Council and the Gulf of Mexico Fishery Management Council concerning a three-Council Generic Import Amendment (GIA) to address management issues regarding the import of spiny lobster. The Caribbean Fishery Management Council has administrative lead for this amendment. The Committee will develop recommendations for submitting the GIA for formal Secretarial review and approval. The Committee will also review the status of State of Florida actions on spiny lobster, and develop a timeline for addressing Annual Catch Limit requirements.

9. Snapper Grouper Committee Meeting: September 16, 2008, 3:30 p.m. until 5 p.m. and September 17, 2008, 8 a.m. until 5 p.m.

The Council's Snapper Grouper Committee will receive a report on activities pertaining to the Oculina Bank, review Amendment 16 public hearing comments and comments received on the Supplemental Draft Environmental Impact Statement (SDEIS), modify Amendment 16 as necessary, and develop recommendations for submitting Amendment 16 for formal Secretarial review. The Committee will review the Interim Rule addressing red snapper and species addressed in Amendment 16 (gag, vermilion snapper, black grouper, and red grouper) and develop recommendations for submitting the Interim Rule for formal Secretarial review. The Committee will also review an options paper for Amendment 17, modify the document as appropriate, provide further direction to staff, and discuss and develop comments on the Annual Catch Limit Proposed Rule.

10. SEDAR Committee Meeting: September 17, 2008, 5 p.m. until 6 p.m.

The SEDAR Committee will meet to discuss the SEDAR 16 stock assessment review process for king mackerel in the South Atlantic and Gulf of Mexico and develop recommendations for the SEDAR Steering Committee.

11. Allocation Committee Meeting: September 18, 2008, 8 a.m. until 9 a.m.

The Allocation Committee will discuss future outlook components of an allocation equation and provide guidance to staff.

12. LAPP Committee Meeting: September 18, 2008, 9 a.m. until 10 a.m.

The LAPP Committee will review and discuss the Wreckfish Individual Transferable Quota (ITQ) Program, develop recommendations for appointments to the Golden Tilefish Workgroup, and develop a Workgroup meeting timeline.

13. Dolphin Wahoo Committee Meeting: September 18, 2008, 10 a.m. until 12 noon

The Dolphin Wahoo Committee will review the Dolphin Wahoo FMP, receive a presentation on changes in the recreational harvest, and review recent recreational and commercial catch levels.

14. Council Session: September 18, 2008, 1:30 p.m. until 6 p.m. and September 19, 2008, 8 a.m. until 12:30 p.m.

Council Session: September 18, 2008, 1:30 p.m. until 6 p.m.

From 1:30 p.m. - 2 p.m., the Council will call the meeting to order, adopt the agenda, and approve the June 2008 meeting minutes. The Council will also elect a Chairman and Vice-Chairman.

From 2 p.m. - 2:30 p.m., the Council will hear a report from the Shrimp Committee and approve Amendment 7 for submission to the Secretary of Commerce, and consider other Committee recommendations and take action as appropriate.

Note: A public comment session will be held at 2:00 p.m. regarding Amendment 7 to the Shrimp FMP.

From 2:30 p.m. - 3:00 p.m., the Council will receive a report from the Spiny Lobster Committee and approve the Generic Import Amendment for submission to the Secretary of Commerce, consider other recommendations, and take action as appropriate.

Note: A public comment session will be held at 2:30 p.m. regarding the Spiny Lobster Generic Import Amendment.

From 3 p.m. - 6 p.m., the Council will receive a report from the Snapper Grouper Committee, approve Amendment 16 for submission to the Secretary of Commerce, approve an Interim Rule for submission to the Secretary of Commerce, consider other Committee recommendations, and take action as appropriate.

Note: A public comment session will be held beginning at 3 p.m. regarding Snapper Grouper Amendment 16. The Council will take public comment on the Interim Rule immediately following the public comment on Amendment 16.

Council Session: September 19, 2008, 8 a.m. until 12:30 p.m.

From 8 a.m. - 8:15 a.m., the Council will receive a legal briefing on litigation (Closed Session).

From 8:15 a.m. - 8:45 a.m., the Council will receive a presentation on the Consolidated Atlantic Highly Migratory Species FMP.

From 8:45 a.m. - 9:15 a.m., the Council will receive a presentation on forage fish.

From 9:15 a.m. - 9:30 a.m., the Council will receive a report from the Joint Executive and Finance Committees, consider recommendations, and take action as appropriate.

From 9:30 a.m. - 9:45 a.m., the Council will receive a report from the SOPPs Committee, consider recommendations, and take action as appropriate.

From 9:45 a.m. - 10 a.m., the Council will receive a report from the AP Selection Committee, consider recommendations, and take action as appropriate.

From 10 a.m. - 10:15 a.m., the Council will receive a report from the Joint Habitat and Ecosystem-Based Committees, approve the FEP and the Comprehensive Ecosystem Amendment for a second round of public hearings, consider other recommendations and take action as appropriate.

From 10:15 a.m. - 10:30 a.m., the Council will receive a report from the SEDAR Committee, consider recommendations, and take action as appropriate.

From 10:30 a.m. - 10:45 a.m., the Council will receive a report from the Allocation Committee, consider recommendations, and take action as appropriate.

From 10:45 a.m. - 11 a.m., the Council will receive a report from the LAPP Committee, appoint a Golden Tilefish Workgroup, consider other Committee recommendations and take action as appropriate.

From 11 a.m. - 11:15 a.m., the Council will receive a report from the Dolphin Wahoo Committee, consider recommendations and take action as appropriate.

From 11:15 a.m. - 12:30 p.m., the Council will receive status reports from NOAA Fisheries' Southeast Regional Office, NOAA Fisheries' Southeast Fisheries Science Center, agency and liaison reports, review Experimental Fishing Permit applications as necessary, and discuss other business including upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal final Council action during these meetings. Council action will be restricted to those issues specifically listed 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.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 11, 2008.

Dated: August 25, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–19972 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No: 070920527–81110–02]

Low-Power Television and Translator Digital-to-Analog Conversion Program

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Amendment to Notice of Availability of Funds.

SUMMARY: On October 29, 2007, the National Telecommunications and Information Administration (NTIA) published a notice in the **Federal Register** announcing the establishment of the Low-Power Television and Translator Digital-to-Analog Conversion Program (Conversion Program) and announcing $8 million in funds available for grants. Pursuant to the requirements of the DTV Transition Assistance Act, Public Law No. 110–295, NTIA has determined that the full funding amount is not necessary for the Conversion Program and herein announces the funds available for these grants to be $3.5 million. NTIA also announces certain changes in the application submission deadlines.

DATES: The deadline for applications is February 17, 2009. However, NTIA will not be able to guarantee the availability of funds for those applications submitted (postmarked) after November 17, 2008. For applications submitted (postmarked) on or after November 18, 2008, through February 17, 2009, NTIA will use no more than $1 million of any of the $3.5 million remaining after November 17, 2008 and will process applications on a first-come, first-served basis until the $1 million is exhausted.

FOR FURTHER INFORMATION CONTACT: William Cooperman, Broadcasting Division Director, at telephone (202) 482–5802; fax (202) 482–2156; e-mail *wcooperman@ntia.doc.gov*; or mail National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room H–4812, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Low-Power Television and Translator Digital-to-Analog Conversion Program

Section 3008 of the Deficit Reduction Act of 2005 (Deficit Reduction Act), Public Law No. 109–171, 120 Stat. 4, 25–26 (2006), established the Low-Power Television and Translator Digital-to-Analog Conversion Program (Conversion Program) to assist low-power television stations so that they can continue analog broadcasting after the February 17, 2009 digital television transition of full-power television stations. The Deficit Reduction Act authorizes $10 million for NTIA to provide funding during fiscal years 2008 and 2009 to eligible low-power television stations so that they may purchase digital-to-analog conversion devices that enable them to convert the incoming digital signal of their corresponding full-power television station to analog format for transmission on the low-power stations' analog channel.

On October 29, 2007, NTIA published a notice in the **Federal Register** announcing the Conversion Program; establishing the eligibility criteria, application requirements, and award amounts for the program; and announcing the availability of $8 million for the grants.[1] NTIA also distributed information about the Conversion Program through postings on *http://www.grants.gov* maintained by the Office of Management and Budget and NTIA's Web site (*http://www.ntia.doc.gov/lptv*), through two mailings to each low-power television licensee, and through information disseminated at industry meetings by NTIA officials. As of July 31, 2008, NTIA had received applications from 749 low-power television facilities, including 689 applications from television translators, 50 applications from low-power television stations, and 10 applications from Class A television stations.

The DTV Transition Assistance Act

On July 31, 2008, the DTV Transition Assistance Act (Assistance Act), Public Law No. 110–295, 122 Stat. 2972 (2008), was enacted. Section 2(a) of the Assistance Act amends Section 3008 of the Deficit Reduction Act to require NTIA to determine whether the full $10 million authorized for the Conversion Program will be needed to assist eligible low-power television stations.[2] The Assistance Act also provides that this determination may be adjusted from time to time.

After reviewing the number of low-power stations potentially eligible for the Conversion Program; the number of requests received through July 31, 2008; and the number of facilities that have received authorizations from the Federal Communications Commission to upgrade to digital transmission via flash-cut, NTIA determined that the full funding amount will not be necessary for payments to eligible low-power television stations. NTIA has determined that $3.5 million should adequately cover the amounts needed for payments to eligible low-power television facilities under the Conversion Program. NTIA has also determined to reduce this amount three months prior to February 17, 2009, digital transition deadline.

Amendments to the Conversion Program

Current program guidance provides that NTIA will accept applications through February 17, 2009, the deadline provided in Section 3008 of the Deficit Reduction Act. To assure maximum effectiveness of the funding for both the Conversion Program and the TV Converter Box Coupon Program, NTIA believes that the application process for the Conversion Program should be expedited. Therefore, to encourage earlier submission of Conversion Program applications, NTIA will make

[1] *See* 72 FR 61109 (2007), also available on NTIA's Web site at: *http://www.mtia.doc.gov/ntiahome/frnotices/2007/LPTVfund_102907.pdf.*

[2] The Assistance Act authorizes NTIA to use the remaining amounts from the Conversion Program for consumer education and technical assistance regarding the digital television transition and the digital-to-analog converter box program authorized by section 3005 of the Deficit Reduction Act (TV Converter Box Coupon Program).

the full $3.5 million available for payment to eligible low-power facilities for those applications submitted (postmarked) by November 17, 2008. For applications submitted (postmarked) on or after November 18, 2008, through February 17, 2009, NTIA will use no more than $1 million of any of the $3.5 million remaining after November 17, 2008 and will process applications on a first-come, first-served basis until the $1 million is exhausted. All other application requirements and procedures contained in the October 29, 2007, **Federal Register** Notice remain in effect.

Executive Order 12866. This action has been determined to be not a significant regulatory action under Executive Order 12866.

Administrative Procedure Act and Regulatory Flexibility Act. Prior notice and comment are not required under 5 U.S.C. 553, or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)). Because prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. *et seq*.) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications Applications.

[FR Doc. E8–19992 Filed 8–27–08; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2008–0018]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice To Add a System of Records.

SUMMARY: The Department of the Air Force is proposing to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on September 29, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, SAF/XCPPI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy Lee at (703) 696–6518.

SUPPLEMENTARY INFORMATION: The Department of the Air Force notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on August 22, 2008, to the House Committee on Government Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 22, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

F0 36 USSC A

SYSTEM NAME:

The Service Chiefs' Program Records.

SYSTEM NAME:

Headquarters, United States Strategic Command (USSTRATCOM)/J8, Futures Capabilities Division, 901, SAC Blvd., Offutt AFB, NE 68113–6800 and Defense Advanced Research Projects Agency (DARPA), 3701 North Fairfax Drive, Arlington, VA 22203–1714.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel in grades 0–3 through 0–5 assigned to Headquarters, United States Strategic Command (USSTRATCOM), USSTRATCOM Joint Forces Component Commands, Global Innovation Strategy Center or the Center for Weapons of Mass Destruction who apply for the USSTRATCOM–DARPA Intern Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), mailing address, military applications, student academic records including course completion records, locator information, and related training/educational records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 8013, Secretary of the Air Force; 5 U.S.C. 4103, Establishment of Training Programs; USSTRATCOM Instruction 234–1, USSTRATCOM–DARPA Intern Program; and E.O. 9397 (SSN).

PURPOSE(S):

To determine applicant eligibility; record attendance, training and completion or elimination; serve as a locator of students and provide a source of statistical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records or information contained therein may be specifically disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The ''Blanket Routine Uses'' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Records are retrieved by the applicant/student's name, and/or Social Security Number (SSN).

SAFEGUARDS:

Paper records are kept in file cabinets located in a secured area and building. Electronic records are stored on computer systems employing software programs that monitor network traffic to identify unauthorized attempts to upload or change information. Access to computer systems is password and/or Public Key Infrastructure controlled. The building is under armed guard control 24 hours per day and video camera monitoring 24 hours per day.

RETENTION AND DISPOSAL:

Records are retained until the individual has completed the program. Paper records are destroyed by shredding, macerating, burning, or tearing to preclude reconstruction. Computer records are disposed of by deleting the information from the database, degaussing, or over-writing.

SYSTEM MANAGER AND ADDRESS:

Chief, Capability Resource Analysis Division, USSTRATCOM/J81, 901 SAC Blvd., Offutt AFB, NE 68113–6800.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Capability Resource Analysis Division, USSTRATCOM/J81, 901 SAC Blvd., Offutt AFB, NE 68113–6800.

Inquiries should contain the individual's full name, mailing address, and bear the signature of the requester.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves should address written inquiries to the Chief, Capability Resource Analysis Division, USSTRATCOM/J81, 901 SAC Blvd., Offutt AFB, NE 68113–6800.

Inquiries should contain the individual's full name, mailing address, and bear the signature of the requester.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Contents of the records are obtained from the individual about whom the record pertains and from supervisors of those personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–20005 Filed 8–27–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0057]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, Department of Defense.

ACTION: Notice To Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 29, 2008, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 22, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

0500–3 DCS

SYSTEM NAME:

Army Disaster Personnel Accountability and Assessment Records (ADPAAS) (July 25, 2008, 73 FR 43416).

CHANGES:

Change system ID to ''A0500–3 DCS G–1.''

* * * * *

A0500–3 DCS G–1

SYSTEM NAME:

Army Disaster Personnel Accountability and Assessment Records (ADPAAS).

SYSTEM LOCATION:

Space and Naval Warfare Systems Center, 53560 Hull Street, San Diego, CA 92152–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army personnel (Military, Civilian, and National Guard) and their families who are involved in a natural or other man-made disaster; catastrophic event; or in support of the Global War on Terrorism.

CATEGORIES OF RECORDS IN THE SYSTEM:

ADPAAS Personnel Accountability and Needs Assessment Survey information that includes name; home and duty stations addresses; Social Security Number (SSN); home, business, and cell telephone numbers; military/civilian status; date of birth; Unit Identification Code (UIC); Electronic Data Interchange—Personal Identifier (EDI–PI); date of last contact; insurance company; Federal Emergency Management Agency (FEMA) Number; e-mail address; dependent information; travel orders/vouchers; assessment date; needs assessment information; type of event; category classification; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Army; DoD Instruction 3001.02, Personnel Accountability in Conjunction With Natural or Man-made Disasters; Army Regulation 500–3, U.S. Army Continuity of Operations Program Policy and Planning; and E.O. 9397 (SSN).

PURPOSE(S):

To assess disaster-related needs (i.e., status of family members, housing, medical, financial assistance, employment, pay and benefits, transportation, child care, pastoral care/counseling, and general legal matters) of Army personnel (Military, Civilian, and National Guard) and their families who have been involved in a natural or man-made major disaster or catastrophic event. To continue to maintain contact with the family members to ensure they receive all necessary support/assistance.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name, Social Security Number (SSN) and date of birth.

SAFEGUARDS:

Password controlled system, file, and element access is based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Event and recovery assistance records are destroyed two years after all actions are completed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, HQDA G–1, ATTN: DAPE–MPZ–PC, 300 Army Pentagon, Washington, DC 20310–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Chief of Staff, HQDA G–1, ATTN: HQDA DAPE–MPZ–PC, 300 Army Pentagon, Washington, DC 20310–0400.

The request should include individual's full name, Social Security Number (SSN), address, date of birth, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Chief of Staff, HQDA G–1, ATTN: HQDA DAPE–MPZ–PC, 300 Army Pentagon, Washington, DC 20310–0400.

The request should include individual's full name, Social Security Number (SSN), address, date of birth, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; personnel files; Needs Assessment Survey; Defense Manpower Data Center; and command personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–20007 Filed 8–27–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Secretary of Education requests comments on the Free Application for Federal Student Aid (FAFSA) that the Secretary proposes to use for the 2009–2010 award year. The FAFSA is completed by students and their families and the information submitted on the form is used to determine the students' eligibility and financial need for financial aid under the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA Programs).

The Department acknowledges the recent passage of the Higher Education Opportunity Act (HEOA) of 2008 and its instruction to the Department to simplify the Federal Student Aid application process, to reduce the number of questions on the FAFSA form, to create a FAFSA–EZ form, and to revise the form so that it contains consumer friendly language as well as take other measures to streamline the process of applying for federal student aid. The Department is committed to improving the federal student aid application process for individuals completing the Free Application for Federal Student Aid (FAFSA). We were challenged to incorporate each of the changes required to satisfy the intent of Congress in implementing the College Cost Reduction and Access Act (CCRAA) and the recently passed post 9/11 legislative changes while not losing focus on our customers' need for a simple, straightforward application.

Because 99 percent of student applicants opt to apply electronically, much of the Department's recent improvements have focused on the FAFSA suite of products. The most heavily used application, FAFSA on the Web, maximizes the use of 'skip logic' and previously submitted FAFSA data, to dramatically reduce the time-to-complete benchmark for returning customers. New customers have the benefit of answering specific questions up front that determine if, for example, the student needs to provide additional asset or parental information. Students that are eligible to skip asset and/or parental questions complete a shorter, more streamlined FAFSA. During 2007–2008, the Department launched the use of a 'real-time' PIN that enables every applicant to electronically sign their FAFSAs during their on-line session; eliminating the time consuming process of separately requesting, and waiting for the delivery of, a PIN. For the one percent of FAFSA applicants that complete the paper FAFSA, the Department has simplified the application process by grouping like questions together, incorporating previously supplemental worksheets into the application; improving the layout of the form; and clearly delineating between student and parental questions. For those students that prefer to submit a paper FAFSA but don't have access to a pre-printed FAFSA form, the Department has created a FAFSA PDF that can be downloaded from the Internet and completed, either on a PC or by hand, and mailed to the Department. In addition, the Department has created numerous on-line and paper sources to assist students with the FAFSA process. The Web site Student Aid on the Web (*http://www.studentaid.ed.gov*) provides a vast array of student-centric information on researching colleges, finding scholarships, preparing academically, and applying for federal student assistance. The FAFSA4caster Web site (*http://www.fafsa4caster.ed.gov*) enables students to obtain an early estimate of their eligibility for federal student aid while increasing their knowledge of the financial aid process. FAFSA4caster users that opt to provide demographic information about themselves can later 'pre-populate' a FAFSA, thereby shortening the application completion time. Working with customers, stakeholders, partners and Congress, the Department will continue its commitment to further streamline the experience for FAFSA applicants into the future.

DATES: Interested persons are invited to submit comments on or before October 27, 2008.

ADDRESSES: Comments may be submitted electronically through e-mail to FAFSA. *Comments@ed.gov*. Interested persons can access this document on the Internet:

(1) Go to IFAP at *http://ifap.ed.gov*.

(2) Scroll down to ''Publications''.

(3) Click on ''FAFSAs and Renewal FAFSAs''.

(4) Click on ''By 2009–2010 Award Year''.

(5) Click on ''Draft FAFSA Form/Instructions''.

Please note that the free Adobe Acrobat Reader software, version 4.0 or greater, is necessary to view this file. This software can be downloaded for free from Adobe's Web site: *http://www.adobe.com*.

SUPPLEMENTARY INFORMATION: The Secretary is publishing this request for comment under the Provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* Under that Act, ED must obtain the review and approval of the Office of Management and Budget (OMB) before it may use a form to collect information. However, under procedure for obtaining approval from OMB, ED must first obtain public comment on the proposed form, and to obtain that comment, ED must publish this notice in the **Federal Register**. In addition to comments requested above, to accommodate the requirements of the Paperwork Reduction Act, the Secretary is interested in receiving comments with regard to the following matters: (1) Is this collection necessary to the proper functions of the Department, (2) will

this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 22, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Revision.

Title: Free Application for Federal Student Aid (FAFSA).

Frequency: Annually.

Affected Public: Individuals.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 17,123,392. *Burden Hours:* 8,341,867.

Abstract: Section 483 of the Higher Education Act of 1965, as amended (HEA), requires the Secretary, ''in cooperation with agencies and organizations involved in providing student financial assistance,'' to ''produce, distribute and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance * * *'' under the Title IV, HEA programs. This form is the FAFSA. In addition, Section 483 authorizes the Secretary to include non-financial data items that assist States in awarding State student financial assistance.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and clicking on link number 3804. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to (202) 401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to the e-mail address *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

[FR Doc. E8–19918 Filed 8–27–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 29, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by -email to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 25, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Evaluation of Moving High-Performing Teachers To Low-Performing Schools.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 91.

Burden Hours: 1,237.

Abstract: The Evaluation of Moving High-Performing Teachers To Low-Performing Schools is an evaluation of a merit-pay strategy to incentivize teachers with a proven track record of increasing student performance to teach in high-need, low-performing schools. The study uses an experimental design in which targeted schools for the strategy with teacher vacancies are either randomly assigned to hire teachers using the pay strategy or hire teachers as they normally would.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3734. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–20003 Filed 8–27–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EERE–2007–BT–WAV–0004]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Cascade Group, LLC From the Department of Energy Residential Central Air Conditioner and Heat Pump Test Procedure [Case No. CAC–013]

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

ACTION: Decision and Order.

SUMMARY: This notice announces the Department of Energy's Decision and Order in Case No. CAC–013, which grants a waiver to Cascade Group, LLC (Cascade) from the existing Department of Energy (DOE) residential central air conditioner and heat pump test procedure for its product line of residential Cascade Energy Saver (CES) multi-blower air-conditioning and heating equipment. DOE is granting a waiver because the multi-blower feature of these products, which impacts the calculation of energy efficiency, is not accounted for in the DOE test procedure. As a condition of this waiver, Cascade must test and rate the energy consumption of specified CES products (indoor units combined with the listed outdoor units) according to the alternate test procedure set forth in this notice.

DATES: This Decision and Order is effective August 28, 2008, and will remain in effect until the effective date of a DOE final rule prescribing an amended test procedure appropriate for the model series of Cascade CES central air conditioners and heat pumps covered by this waiver.

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SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(l), DOE gives notice of the issuance of its Decision and Order as set forth below. In the Decision and Order, DOE grants Cascade a waiver from the existing residential central air conditioner and heat pump test procedures under 10 CFR Part 430, Subpart B, Appendix M, for its CES multi-indoor blower-motor products, subject to a condition requiring Cascade to test and rate its CES products pursuant to the alternate test procedure provided in this notice. DOE is granting the waiver because the multi-blower feature of these products, which impacts the calculation of energy efficiency, is not accounted for in the DOE test procedure. Today's Decision and Order requires that Cascade may not make any representations concerning the energy efficiency of these products unless such product has been tested in accordance with the DOE test procedure, consistent with the provisions and restrictions in the alternate test procedure as set forth in the Decision and Order below, and such representations fairly disclose the results of such testing.[1] (42 U.S.C. 6293(c))

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

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Cascade Group, LLC (Cascade) (Case No. CAC–013).

Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part A[2] of Title III which establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' (42 U.S.C. 6291–6309) Part A includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part A authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated annual operating cost, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

Relevant to the current Petition for Waiver, the test procedures for residential central air conditioners and heat pumps are codified in 10 CFR part 430, Subpart B, Appendix M. On October 22, 2007, DOE amended the test procedures for residential central air conditioners and central air conditioning heat pumps to implement test procedure changes for small-duct, high-velocity systems, two-capacity units, and to update references to the current American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) standards. 72 FR 59906. The October 22, 2007 final rule became effective on April 21, 2008. However, these amendments did not solve the problem raised by Cascade in its petition.

DOE regulations for covered products contain provisions allowing any interested person to seek a waiver from the test procedure requirements for covered consumer products when the petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to evaluate the basic model in a manner representative of its energy consumption. (10 CFR 430.27(b)(1)(iii))

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers generally terminate on the effective date of a final rule which prescribes amended test procedures appropriate to the model series manufactured by the petitioner, thereby eliminating any need for the continuation of the waiver. 10 CFR 430.27(m).

The waiver process contained in DOE's regulations also allows any interested person who has submitted a Petition for Waiver to file an Application for Interim Waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an Interim Waiver request if it is determined that the applicant will experience economic hardship if the Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. 10 CFR 430.27(g). An Interim Waiver remains in effect for a period of 180 days or until DOE issues a determination on the Petition for

[1] Consistent with the statute, distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. (42 U.S.C. 6293(c))

[2] This part was originally titled Part B; however, it was redesignated Part A, after Part B of Title III was repealed by Public Law 109–58.

Waiver, whichever occurs first, and may be extended by DOE for 180 days, if necessary. 10 CFR 430.27(h).

On July 22, 2005, Cascade filed a Petition for Waiver and an Application for Interim Waiver from the test procedures applicable to its CES line of residential multi-blower air-conditioning and heating equipment. The DOE test procedures have provisions for central air conditioners with one blower and one indoor coil (the most common type), and for multi-splits, which have multiple refrigerant lines running to multiple indoor fan-coil units. The Cascade product line has one indoor coil with multiple blowers distributing air to a number of outlets. The DOE test procedure does not cover this situation, which, so far, is unique to Cascade's products.

Cascade's petition requested a waiver from ARI 210/240, but this is not the applicable test procedure; instead, as explained below, the applicable test procedures are those residential test procedures contained in 10 CFR part 430, Subpart B, Appendix M. For the CES multi-blower product line at issue here, all of the outdoor units involve single-phase equipment both for residential and commercial use. There is no prescribed test procedure in 10 CFR part 431, *Energy Efficiency Program for Certain Commercial and Industrial Equipment,* for single-phase, small commercial package air-conditioning and heating equipment. A waiver is nonetheless required for this single-phase equipment because Cascade's multi-blower products are properly classified as ''consumer products'' under 42 U.S.C. 6291(1). ''Consumer products'' are ones which, to a significant extent, are for personal use. Small commercial single-phase package air-conditioning and heating equipment meet this definition, given their frequent residential applications. (42 U.S.C. 6291(1)(B)) Thus, the Cascade CES products in question here require a waiver from DOE's test procedure for residential central air conditioners and heat pumps, under 10 CFR part 430, Subpart B, Appendix M.

Cascade seeks a waiver from the applicable test procedures because the multi-blower feature of Cascade's equipment prevents testing according to the currently prescribed test procedures under 10 CFR part 430. Consequently, Cascade has submitted an alternate test procedure to DOE for approval that can be used to determine the performance of its CES products. The alternate test procedure provides rules and algorithms so that, regardless of the actual number of blowers and heat pumps, the test procedure will model the CES system as a one-blower evaporator with a two-speed fan and one heat pump with one or more speeds.

On April 20, 2007, DOE published in the **Federal Register** Cascade's Petition for Waiver and solicited public comments. 72 FR 19891. Cascade's Application for Interim Waiver was denied because it did not provide sufficient information to evaluate economic impact or competitive disadvantage or to determine public policy reasons to grant immediate relief. Also, DOE has never granted a waiver for a similar product design, so the likelihood of granting the waiver was unclear.

DOE received one comment from Joseph A. Pietsch, P. E., which supported granting the waiver and Cascade's alternate test procedure ''as an acceptable approach for rating the performance of the subject heat pump.''

Assertions and Determinations

Cascade's Petition for Waiver

On July 22, 2005, Cascade submitted a Petition for Waiver and an Application for Interim Waiver from the test procedures applicable to residential and commercial air-conditioning and heating equipment, for its new line of CES models of central air conditioners and heat pumps. As explained above, only a waiver from the residential test procedure in 10 CFR part 430, Subpart B, Appendix M is needed.

Cascade claims that the energy consumption of its CES systems cannot be accurately measured using the existing test procedures for the following reasons: (1) the DOE test procedure stipulates that the unit meet the maximum standard airflow rate of 37.5 cubic feet per minute (CFM)/1000 British thermal units/hour (Btu/hr); [3] and (2) this CFM is applicable to an indoor unit that has only one blower-motor. The CES unit has from two to eight indoor blower-motors that are independently operating. The DOE test procedure has no guidance concerning the number of blowers that should be operating, the apportionment of the air flow among the multiple blowers, or the test set-up for a multi-blower system. Cascade seeks a waiver because, it asserts, the current procedures for testing do not apply. Therefore, the Cascade Petition requested that DOE grant a waiver from the existing test procedures until such time as a representative test procedure is developed and adopted for this class of products.

In support of its petition, Cascade also submitted an alternate test procedure that would be applicable to all of its configurations of CES models of air conditioners and heat pumps. Cascade modified its petition on May 26, 2006, and again on April 16, 2007, after consultation with the National Institute of Standards and Technology (NIST). NIST found that there had been limitations in the original modeling rules, and supplied more comprehensive rules for modeling the CES systems. On August 15, 2007, Cascade submitted to DOE a set of general rules and set-up procedures to be used when testing its CES models, but with slight variations in testing tailored to each different system.

Specifically, Cascade asserted that its alternate test procedure may be used for rating its CES multiple blower-coils in combination with specified condensing units from other manufacturers. In large part, the alternate test procedure is essentially the same as the current test procedure for central air conditioners and heat pumps in 10 CFR part 430, Subpart B, Appendix M. However, Cascade's alternate test procedure differs from the prescribed test procedure because it covers indoor blower coils that have more than one indoor blower and motor. Cascade's Petition for Waiver described Cascade's alternate test procedure for a particular configuration with two heat pumps and eight blowers, and Cascade subsequently supplied methodological rules and set-up procedures to describe how its alternate test procedure would be used to test other configurations.

DOE understands that, using the current central air conditioning and heat pump test procedure, the company cannot calculate the seasonal energy efficiency ratio (SEER) and the heating seasonal performance factor (HSPF) for its CES products. Based on the above, DOE believes that the identified problems would prevent testing of Cascade's CES basic models according to the existing test procedure. However, the alternate test procedures described in Cascade's Petition for Waiver will enable Cascade to calculate these energy efficiency measures. After careful consideration, DOE has decided to adopt the alternate test procedure suggested by Cascade to test its CES line of air conditioners and heat pumps, including the relevant rules and set-up requirements.

Consultations With Other Agencies

DOE consulted with Federal Trade Commission (FTC) staff and NIST concerning the Cascade Petition for Waiver. The FTC staff did not have any

[3] 10 CFR part 430, Subpart B, Appendix M, section 3.1.4.1.1.

objections to granting a waiver to Cascade. NIST provided a technical review of the alternate test procedure.

Conclusion

After careful consideration of all the materials submitted by Cascade, the comment received, the review by National Institute of Standards and Technology, and consultation with FTC staff, it is ordered that:

(1) The ''Petition for Waiver'' filed by Cascade Group, LLC (Cascade) (Case No. CAC–013) is hereby granted, subject to the provisions of paragraphs (2), (3), (4), and (5) of this Order.

(2) Cascade shall not be required to test or rate its Cascade Energy Saver (CES) line of central air conditioners and heat pumps, as listed below, on the basis of the test procedures specified in 10 CFR part 430, Subpart B, Appendix M, but shall be required to test and rate such products according to the alternate test procedure set forth in Appendix A (see Cascade's Petition for Waiver, which published in the **Federal Register** on April 20, 2007, 72 FR 19891), as well as the table of system configurations in paragraph (3)(B); the rules for generalizing the test procedure modifications in paragraph (3)(B); and the test procedure set-up requirements in paragraph (4).

This waiver applies to the following basic models:

Combinations of indoor-outdoor units that are subject to the waiver

Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade Manufacturing, L.P. (Cascade).	CES–1–2–2	2	Amana	1	ASH130241A
Cascade	CES–1–2–2	2	Aire-Flo	1	2HP13(B,L)24P–1
Cascade	CES–1–2–2	2	AirPro	1	FRHS0241CD
Cascade	CES–1–2–2	2	American Standard	1	2A6B3024A1
Cascade	CES–1–2–2	2	Bryant	1	213ANA024–A
Cascade	CES–1–2–2	2	Carrier	1	25HBA324A30
Cascade	CES–1–2–2	2	Coleman	1	DRHS0241BD
Cascade	CES–1–2–2	2	Ducane	1	2HP13(B,L)24P–1
Cascade	CES–1–2–2	2	Fedders	1	CH24ABD1VF
Cascade	CES–1–2–2	2	Frigidaire	1	FT3BD–024K
Cascade	CES–1–2–2	2	Gibson	1	GT3BD–024K
Cascade	CES–1–2–2	2	Goodman	1	GSH130241A
Cascade	CES–1–2–2	2	Lennox	1	12HPB24–P
Cascade	CES–1–2–2	2	Luxaire	1	EABC–F024S
Cascade	CES–1–2–2	2	Maytag	1	PSH1BC024K
Cascade	CES–1–2–2	2	Rheem	1	13PJA24
Cascade	CES–1–2–2	2	Ruud	1	13PJA24
Cascade	CES–1–2–2	2	Tappan	1	FT3BD–024K
Cascade	CES–1–2–2	2	Trane	1	2TWB3024A1
Cascade	CES–1–2–2	2	York	1	E1RC024S06
Cascade	CES–1–2–2	2	Westinghouse	1	FT3BD–024K
Cascade	CES–1–2–2	2	Whirlpool	1	W2H324A–1A
Cascade	CES–1–2–3	2	Amana	1	ASH130241A
Cascade	CES–1–2–3	2	Aire-Flo	1	2HP13(B,L)24P–1
Cascade	CES–1–2–3	2	AirPro	1	FRHS0241CD
Cascade	CES–1–2–3	2	American Standard	1	2A6B3024A1
Cascade	CES–1–2–3	2	Bryant	1	213ANA024–A
Cascade	CES–1–2–3	2	Carrier	1	25HBA324A30
Cascade	CES–1–2–3	2	Coleman	1	DRHS0241BD
Cascade	CES–1–2–3	2	Ducane	1	2HP13(B,L)24P–1
Cascade	CES–1–2–3	2	Fedders	1	CH24ABD1VF
Cascade	CES–1–2–3	2	Frigidaire	1	FT3BD–024K
Cascade	CES–1–2–3	2	Gibson	1	GT3BD–024K
Cascade	CES–1–2–3	2	Goodman	1	GSH130241A
Cascade	CES–1–2–3	2	Lennox	1	12HPB24–P
Cascade	CES–1–2–3	2	Luxaire	1	EABC–F024S
Cascade	CES–1–2–3	2	Maytag	1	PSH1BC024K
Cascade	CES–1–2–3	2	Rheem	1	13PJA24
Cascade	CES–1–2–3	2	Ruud	1	13PJA24
Cascade	CES–1–2–3	2	Tappan	1	FT3BD–024K
Cascade	CES–1–2–3	2	Trane	1	2TWB3024A1
Cascade	CES–1–2–3	2	York	1	E1RC024S06
Cascade	CES–1–2–3	2	Westinghouse	1	FT3BD–024K
Cascade	CES–1–2–3	2	Whirlpool	1	W2H324A–1A
Cascade	CES–1–2–4	2	Amana	1	ASH130241A
Cascade	CES–1–2–4	2	Aire-Flo	1	2HP13(B,L)24P–1
Cascade	CES–1–2–4	2	AirPro	1	FRHS0241CD
Cascade	CES–1–2–4	2	American Standard	1	2A6B3024A1
Cascade	CES–1–2–4	2	Bryant	1	213ANA024–A
Cascade	CES–1–2–4	2	Carrier	1	25HBA324A30
Cascade	CES–1–2–4	2	Coleman	1	DRHS0241BD

Combinations of indoor-outdoor units that are subject to the waiver

Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade	CES–1–2–4	2	Ducane	1	2HP13(B,L)24P–1
Cascade	CES–1–2–4	2	Fedders	1	CH24ABD1VF
Cascade	CES–1–2–4	2	Frigidaire	1	FT3BD–024K
Cascade	CES–1–2–4	2	Gibson	1	GT3BD–024K
Cascade	CES–1–2–4	2	Goodman	1	GSH130241A
Cascade	CES–1–2–4	2	Lennox	1	12HPB24–P
Cascade	CES–1–2–4	2	Luxaire	1	EABC–F024S
Cascade	CES–1–2–4	2	Maytag	1	PSH1BC024K
Cascade	CES–1–2–4	2	Rheem	1	13PJA24
Cascade	CES–1–2–4	2	Ruud	1	13PJA24
Cascade	CES–1–2–4	2	Tappan	1	FT3BD–024K
Cascade	CES–1–2–4	2	Trane	1	2TWB3024A1
Cascade	CES–1–2–4	2	York	1	E1RC024S06
Cascade	CES–1–2–4	2	Westinghouse	1	FT3BD–024K
Cascade	CES–1–2–4	2	Whirlpool	1	W2H324A–1A
Cascade	CES–1–2.5–2	2.5	Amana	1	ASH130301A
Cascade	CES–1–2.5–2	2.5	Aire-Flo	1	2HP13(B,L)30P–1
Cascade	CES–1–2.5–2	2.5	AirPro	1	FRHS0301CD
Cascade	CES–1–2.5–2	2.5	American Standard	1	2A6B3030A1
Cascade	CES–1–2.5–2	2.5	Bryant	1	213ANA030–A
Cascade	CES–1–2.5–2	2.5	Carrier	1	25HBA330A30
Cascade	CES–1–2.5–2	2.5	Coleman	1	DRHS0301BD
Cascade	CES–1–2.5–2	2.5	Ducane	1	2HP13(B,L)30P–1
Cascade	CES–1–2.5–2	2.5	Fedders	1	CH30ABD1VF
Cascade	CES–1–2.5–2	2.5	Frigidaire	1	FT3BD–030K
Cascade	CES–1–2.5–2	2.5	Gibson	1	GT3BD–030K
Cascade	CES–1–2.5–2	2.5	Goodman	1	CPLT30–1
Cascade	CES–1–2.5–2	2.5	Lennox	1	12HPB30–P
Cascade	CES–1–2.5–2	2.5	Luxaire	1	EABC–F030S
Cascade	CES–1–2.5–2	2.5	Maytag	1	DT3BD–030K
Cascade	CES–1–2.5–2	2.5	Rheem	1	13PJA30
Cascade	CES–1–2.5–2	2.5	Ruud	1	13PJA30
Cascade	CES–1–2.5–2	2.5	Tappan	1	FT3BD–030K
Cascade	CES–1–2.5–2	2.5	Trane	1	2TWB3030A1
Cascade	CES–1–2.5–2	2.5	York	1	E1RC030S06
Cascade	CES–1–2.5–2	2.5	Westinghouse	1	FT3BD–030K
Cascade	CES–1–2.5–2	2.5	Whirlpool	1	WGH430A
Cascade	CES–1–2.5–3	2.5	Amana	1	ASH130301A
Cascade	CES–1–2.5–3	2.5	Aire-Flo	1	2HP13(B,L)30P–1
Cascade	CES–1–2.5–3	2.5	AirPro	1	FRHS0301CD
Cascade	CES–1–2.5–3	2.5	American Standard	1	2A6B3030A1
Cascade	CES–1–2.5–3	2.5	Bryant	1	213ANA030–A
Cascade	CES–1–2.5–3	2.5	Carrier	1	25HBA330A30
Cascade	CES–1–2.5–3	2.5	Coleman	1	DRHS0301BD
Cascade	CES–1–2.5–3	2.5	Ducane	1	2HP13(B,L)30P–1
Cascade	CES–1–2.5–3	2.5	Fedders	1	CH30ABD1VF
Cascade	CES–1–2.5–3	2.5	Frigidaire	1	FT3BD–030K
Cascade	CES–1–2.5–3	2.5	Gibson	1	GT3BD–030K
Cascade	CES–1–2.5–3	2.5	Goodman	1	CPLT30–1
Cascade	CES–1–2.5–3	2.5	Lennox	1	12HPB30–P
Cascade	CES–1–2.5–3	2.5	Luxaire	1	EABC–F030S
Cascade	CES–1–2.5–3	2.5	Maytag	1	DT3BD–030K
Cascade	CES–1–2.5–3	2.5	Rheem	1	13PJA30
Cascade	CES–1–2.5–3	2.5	Ruud	1	13PJA30
Cascade	CES–1–2.5–3	2.5	Tappan	1	FT3BD–030K
Cascade	CES–1–2.5–3	2.5	Trane	1	2TWB3030A1
Cascade	CES–1–2.5–3	2.5	York	1	E1RC030S06
Cascade	CES–1–2.5–3	2.5	Westinghouse	1	FT3BD–030K
Cascade	CES–1–2.5–3	2.5	Whirlpool	1	WGH430A
Cascade	CES–1–2.5–4	2.5	Amana	1	ASH130301A
Cascade	CES–1–2.5–4	2.5	Aire-Flo	1	2HP13(B,L)30P–1
Cascade	CES–1–2.5–4	2.5	AirPro	1	FRHS0301CD
Cascade	CES–1–2.5–4	2.5	American Standard	1	2A6B3030A1
Cascade	CES–1–2.5–4	2.5	Bryant	1	213ANA030–A
Cascade	CES–1–2.5–4	2.5	Carrier	1	25HBA330A30
Cascade	CES–1–2.5–4	2.5	Coleman	1	DRHS0301BD
Cascade	CES–1–2.5–4	2.5	Ducane	1	2HP13(B,L)30P–1

Combinations of indoor-outdoor units that are subject to the waiver

Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade	CES–1–2.5–4	2.5	Fedders	1	CH30ABD1VF
Cascade	CES–1–2.5–4	2.5	Frigidaire	1	FT3BD–030K
Cascade	CES–1–2.5–4	2.5	Gibson	1	GT3BD–030K
Cascade	CES–1–2.5–4	2.5	Goodman	1	CPLT30–1
Cascade	CES–1–2.5–4	2.5	Lennox	1	12HPB30–P
Cascade	CES–1–2.5–4	2.5	Luxaire	1	EABC–F030S
Cascade	CES–1–2.5–4	2.5	Maytag	1	DT3BD–030K
Cascade	CES–1–2.5–4	2.5	Rheem	1	13PJA30
Cascade	CES–1–2.5–4	2.5	Ruud	1	13PJA30
Cascade	CES–1–2.5–4	2.5	Tappan	1	FT3BD–030K
Cascade	CES–1–2.5–4	2.5	Trane	1	2TWB3030A1
Cascade	CES–1–2.5–4	2.5	York	1	E1RC030S06
Cascade	CES–1–2.5–4	2.5	Westinghouse	1	FT3BD–030K
Cascade	CES–1–2.5–4	2.5	Whirlpool	1	WGH430A
Cascade	CES–2–1.5–2	3	Amana	2	ASH130181A
Cascade	CES–2–1.5–2	3	Aire-Flo	2	2HP13(B,L)18P–1
Cascade	CES–2–1.5–2	3	AirPro	2	DRHS0181BD
Cascade	CES–2–1.5–2	3	American Standard	2	2A6B3018A1
Cascade	CES–2–1.5–2	3	Bryant	2	213ANA018–A
Cascade	CES–2–1.5–2	3	Carrier	2	25HBA318A30
Cascade	CES–2–1.5–2	3	Coleman	2	DRHS0181BD
Cascade	CES–2–1.5–2	3	Ducane	2	2HP13(B,L)18P–1
Cascade	CES–2–1.5–2	3	Fedders	2	CH18ABD1VF
Cascade	CES–2–1.5–2	3	Frigidaire	2	FT3BD–018K
Cascade	CES–2–1.5–2	3	Gibson	2	GT3BD–018K
Cascade	CES–2–1.5–2	3	Goodman	2	GSH130181A
Cascade	CES–2–1.5–2	3	Lennox	2	12HPB18–P
Cascade	CES–2–1.5–2	3	Luxaire	2	EABC–F018S
Cascade	CES–2–1.5–2	3	Maytag	2	DT5BD–018K
Cascade	CES–2–1.5–2	3	Rheem	2	13PJA18
Cascade	CES–2–1.5–2	3	Ruud	2	UPNE–018JZ
Cascade	CES–2–1.5–2	3	Tappan	2	FT3BD–018K
Cascade	CES–2–1.5–2	3	Trane	2	2TWB3018A1
Cascade	CES–2–1.5–2	3	York	2	E1RC018S06
Cascade	CES–2–1.5–2	3	Westinghouse	2	W2H318A–1A
Cascade	CES–2–1.5–2	3	Whirlpool	2	W2H318A–1A
Cascade	CES–2–1.5–3	3	Amana	2	ASH130181A
Cascade	CES–2–1.5–3	3	Aire-Flo	2	2HP13(B,L)18P–1
Cascade	CES–2–1.5–3	3	AirPro	2	DRHS0181BD
Cascade	CES–2–1.5–3	3	American Standard	2	2A6B3018A1
Cascade	CES–2–1.5–3	3	Bryant	2	213ANA018–A
Cascade	CES–2–1.5–3	3	Carrier	2	25HBA318A30
Cascade	CES–2–1.5–3	3	Coleman	2	DRHS0181BD
Cascade	CES–2–1.5–3	3	Ducane	2	2HP13(B,L)18P–1
Cascade	CES–2–1.5–3	3	Fedders	2	CH18ABD1VF
Cascade	CES–2–1.5–3	3	Frigidaire	2	FT3BD–018K
Cascade	CES–2–1.5–3	3	Gibson	2	GT3BD–018K
Cascade	CES–2–1.5–3	3	Goodman	2	GSH130181A
Cascade	CES–2–1.5–3	3	Lennox	2	12HPB18–P
Cascade	CES–2–1.5–3	3	Luxaire	2	EABC–F018S
Cascade	CES–2–1.5–3	3	Maytag	2	DT5BD–018K
Cascade	CES–2–1.5–3	3	Rheem	2	13PJA18
Cascade	CES–2–1.5–3	3	Ruud	2	UPNE–018JZ
Cascade	CES–2–1.5–3	3	Tappan	2	FT3BD–018K
Cascade	CES–2–1.5–3	3	Trane	2	2TWB3018A1
Cascade	CES–2–1.5–3	3	York	2	E1RC018S06
Cascade	CES–2–1.5–3	3	Westinghouse	2	W2H318A–1A
Cascade	CES–2–1.5–3	3	Whirlpool	2	W2H318A–1A
Cascade	CES–2–1.5–4	3	Amana	2	ASH130181A
Cascade	CES–2–1.5–4	3	Aire-Flo	2	2HP13(B,L)18P–1
Cascade	CES–2–1.5–4	3	AirPro	2	DRHS0181BD
Cascade	CES–2–1.5–4	3	American Standard	2	2A6B3018A1
Cascade	CES–2–1.5–4	3	Bryant	2	213ANA018–A
Cascade	CES–2–1.5–4	3	Carrier	2	25HBA318A30
Cascade	CES–2–1.5–4	3	Coleman	2	DRHS0181BD
Cascade	CES–2–1.5–4	3	Ducane	2	2HP13(B,L)18P–1
Cascade	CES–2–1.5–4	3	Fedders	2	CH18ABD1VF

Combinations of indoor-outdoor units that are subject to the waiver

Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade	CES–2–1.5–4	3	Frigidaire	2	FT3BD–018K
Cascade	CES–2–1.5–4	3	Gibson	2	GT3BD–018K
Cascade	CES–2–1.5–4	3	Goodman	2	GSH130181A
Cascade	CES–2–1.5–4	3	Lennox	2	12HPB18–P
Cascade	CES–2–1.5–4	3	Luxaire	2	EABC–F018S
Cascade	CES–2–1.5–4	3	Maytag	2	DT5BD–018K
Cascade	CES–2–1.5–4	3	Rheem	2	13PJA18
Cascade	CES–2–1.5–4	3	Ruud	2	UPNE–018JZ
Cascade	CES–2–1.5–4	3	Tappan	2	FT3BD–018K
Cascade	CES–2–1.5–4	3	Trane	2	2TWB3018A1
Cascade	CES–2–1.5–4	3	York	2	E1RC018S06
Cascade	CES–2–1.5–4	3	Westinghouse	2	W2H318A–1A
Cascade	CES–2–1.5–4	3	Whirlpool	2	W2H318A–1A
Cascade	CES–2–2–2	4	Amana	2	ASH130241A
Cascade	CES–2–2–2	4	Aire-Flo	2	2HP13(B,L)24P–1
Cascade	CES–2–2–2	4	AirPro	2	DRHS0241BD
Cascade	CES–2–2–2	4	American Standard	2	2A6B3024A1
Cascade	CES–2–2–2	4	Bryant	2	213ANA024–A
Cascade	CES–2–2–2	4	Carrier	2	25HBA324A30
Cascade	CES–2–2–2	4	Coleman	2	DRHS0241BD
Cascade	CES–2–2–2	4	Ducane	2	2HP13(B,L)18P–1
Cascade	CES–2–2–2	4	Fedders	2	CH24ABD1VF
Cascade	CES–2–2–2	4	Frigidaire	2	FT3BD–024K
Cascade	CES–2–2–2	4	Gibson	2	GT3BD–024K
Cascade	CES–2–2–2	4	Goodman	2	GSH130241A
Cascade	CES–2–2–2	4	Lennox	2	12HPB24–P
Cascade	CES–2–2–2	4	Luxaire	2	EABC–F024S
Cascade	CES–2–2–2	4	Maytag	2	DT3BD–024K
Cascade	CES–2–2–2	4	Rheem	2	13PJA24
Cascade	CES–2–2–2	4	Ruud	2	13PJA24
Cascade	CES–2–2–2	4	Tappan	2	FT3BD–024K
Cascade	CES–2–2–2	4	Trane	2	2TWB3024A1
Cascade	CES–2–2–2	4	York	2	E1RC024S06
Cascade	CES–2–2–2	4	Westinghouse	2	FT3BD–024K
Cascade	CES–2–2–2	4	Whirlpool	2	W2H324A–1A
Cascade	CES–2–2–3	4	Amana	2	ASH130241A
Cascade	CES–2–2–3	4	Aire-Flo	2	2HP13(B,L)24P–1
Cascade	CES–2–2–3	4	AirPro	2	FRHS0241CD
Cascade	CES–2–2–3	4	American Standard	2	2A6B3024A1
Cascade	CES–2–2–3	4	Bryant	2	213ANA024–A
Cascade	CES–2–2–3	4	Carrier	2	25HBA324A30
Cascade	CES–2–2–3	4	Coleman	2	DRHS0241BD
Cascade	CES–2–2–3	4	Ducane	2	2HP13(B,L)18P–1
Cascade	CES–2–2–3	4	Fedders	2	CH24ABD1VF
Cascade	CES–2–2–3	4	Frigidaire	2	FT3BD–024K
Cascade	CES–2–2–3	4	Gibson	2	GT3BD–024K
Cascade	CES–2–2–3	4	Goodman	2	GSH130241A
Cascade	CES–2–2–3	4	Lennox	2	12HPB24–P
Cascade	CES–2–2–3	4	Luxaire	2	EABC–F024S
Cascade	CES–2–2–3	4	Maytag	2	DT3BD–024K
Cascade	CES–2–2–3	4	Rheem	2	13PJA24
Cascade	CES–2–2–3	4	Ruud	2	13PJA24
Cascade	CES–2–2–3	4	Tappan	2	FT3BD–024K
Cascade	CES–2–2–3	4	Trane	2	2TWB3024A1
Cascade	CES–2–2–3	4	York	2	E1RC024S06
Cascade	CES–2–2–3	4	Westinghouse	2	FT3BD–024K
Cascade	CES–2–2–3	4	Whirlpool	2	W2H324A–1A
Cascade	CES–2–2–4	4	Amana	2	ASH130241A
Cascade	CES–2–2–4	4	Aire-Flo	2	2HP13(B,L)24P–1
Cascade	CES–2–2–4	4	AirPro	2	FRHS0241CD
Cascade	CES–2–2–4	4	American Standard	2	2A6B3024A1
Cascade	CES–2–2–4	4	Bryant	2	213ANA024–A
Cascade	CES–2–2–4	4	Carrier	2	25HBA324A30
Cascade	CES–2–2–4	4	Coleman	2	DRHS0241BD
Cascade	CES–2–2–4	4	Ducane	2	2HP13(B,L)18P–1
Cascade	CES–2–2–4	4	Fedders	2	CH24ABD1VF
Cascade	CES–2–2–4	4	Frigidaire	2	FT3BD–024K

Combinations of indoor-outdoor units that are subject to the waiver

Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade	CES–2–2–4	4	Gibson	2	GT3BD–024K
Cascade	CES–2–2–4	4	Goodman	2	GSH130241A
Cascade	CES–2–2–4	4	Lennox	2	12HPB24–P
Cascade	CES–2–2–4	4	Luxaire	2	EABC–F024S
Cascade	CES–2–2–4	4	Maytag	2	DT3BD–024K
Cascade	CES–2–2–4	4	Rheem	2	13PJA24
Cascade	CES–2–2–4	4	Ruud	2	13PJA24
Cascade	CES–2–2–4	4	Tappan	2	FT3BD–024K
Cascade	CES–2–2–4	4	Trane	2	2TWB3024A1
Cascade	CES–2–2–4	4	York	2	E1RC024S06
Cascade	CES–2–2–4	4	Westinghouse	2	FT3BD–024K
Cascade	CES–2–2–4	4	Whirlpool	2	W2H324A–1A
Cascade	CES–2–2–5	4	Amana	2	ASH130241A
Cascade	CES–2–2–5	4	Aire-Flo	2	2HP13(B,L)24P–1
Cascade	CES–2–2–5	4	AirPro	2	FRHS0241CD
Cascade	CES–2–2–5	4	American Standard	2	2A6B3024A1
Cascade	CES–2–2–5	4	Bryant	2	213ANA024–A
Cascade	CES–2–2–5	4	Carrier	2	25HBA324A30
Cascade	CES–2–2–5	4	Coleman	2	DRHS0241BD
Cascade	CES–2–2–5	4	Ducane	2	2HP13(B,L)24P–1
Cascade	CES–2–2–5	4	Fedders	2	CH24ABD1VF
Cascade	CES–2–2–5	4	Frigidaire	2	FT3BD–024K
Cascade	CES–2–2–5	4	Gibson	2	GT3BD–024K
Cascade	CES–2–2–5	4	Goodman	2	GSH130241A
Cascade	CES–2–2–5	4	Lennox	2	12HPB24–P
Cascade	CES–2–2–5	4	Luxaire	2	EABC–F024S
Cascade	CES–2–2–5	4	Maytag	2	DT3BD–024K
Cascade	CES–2–2–5	4	Rheem	2	13PJA24
Cascade	CES–2–2–5	4	Ruud	2	13PJA24
Cascade	CES–2–2–5	4	Tappan	2	FT3BD–024K
Cascade	CES–2–2–5	4	Trane	2	2TWB3024A1
Cascade	CES–2–2–5	4	York	2	E1RC024S06
Cascade	CES–2–2–5	4	Westinghouse	2	FT3BD–024K
Cascade	CES–2–2–5	4	Whirlpool	2	W2H324A–1A
Cascade	CES–2–2–6	4	Amana	2	ASH130241A
Cascade	CES–2–2–6	4	Aire-Flo	2	2HP13(B,L)24P–1
Cascade	CES–2–2–6	4	AirPro	2	FRHS0241CD
Cascade	CES–2–2–6	4	American Standard	2	2A6B3024A1
Cascade	CES–2–2–6	4	Bryant	2	213ANA024–A
Cascade	CES–2–2–6	4	Carrier	2	25HBA324A30
Cascade	CES–2–2–6	4	Coleman	2	DRHS0241BD
Cascade	CES–2–2–6	4	Ducane	2	2HP13(B,L)24P–1
Cascade	CES–2–2–6	4	Fedders	2	CH24ABD1VF
Cascade	CES–2–2–6	4	Frigidaire	2	FT3BD–024K
Cascade	CES–2–2–6	4	Gibson	2	GT3BD–024K
Cascade	CES–2–2–6	4	Goodman	2	GSH130241A
Cascade	CES–2–2–6	4	Lennox	2	12HPB24–P
Cascade	CES–2–2–6	4	Luxaire	2	EABC–F024S
Cascade	CES–2–2–6	4	Maytag	2	DT3BD–024K
Cascade	CES–2–2–6	4	Rheem	2	13PJA24
Cascade	CES–2–2–6	4	Ruud	2	13PJA24
Cascade	CES–2–2–6	4	Tappan	2	FT3BD–024K
Cascade	CES–2–2–6	4	Trane	2	2TWB3024A1
Cascade	CES–2–2–6	4	York	2	E1RC024S06
Cascade	CES–2–2–6	4	Westinghouse	2	FT3BD–024K
Cascade	CES–2–2–6	4	Whirlpool	2	W2H324A–1A
Cascade	CES–2–2–7	4	Amana	2	ASH130241A
Cascade	CES–2–2–7	4	Aire-Flo	2	2HP13(B,L)24P–1
Cascade	CES–2–2–7	4	AirPro	2	FRHS0241CD
Cascade	CES–2–2–7	4	American Standard	2	2A6B3024A1
Cascade	CES–2–2–7	4	Bryant	2	213ANA024–A
Cascade	CES–2–2–7	4	Carrier	2	25HBA324A30
Cascade	CES–2–2–7	4	Coleman	2	DRHS0241BD
Cascade	CES–2–2–7	4	Ducane	2	2HP13(B,L)24P–1
Cascade	CES–2–2–7	4	Fedders	2	CH24ABD1VF
Cascade	CES–2–2–7	4	Frigidaire	2	FT3BD–024K
Cascade	CES–2–2–7	4	Gibson	2	GT3BD–024K

Combinations of indoor-outdoor units that are subject to the waiver

Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade	CES–2–2–7	4	Goodman	2	GSH130241A
Cascade	CES–2–2–7	4	Lennox	2	12HPB24–P
Cascade	CES–2–2–7	4	Luxaire	2	EABC–F024S
Cascade	CES–2–2–7	4	Maytag	2	DT3BD–024K
Cascade	CES–2–2–7	4	Rheem	2	13PJA24
Cascade	CES–2–2–7	4	Ruud	2	13PJA24
Cascade	CES–2–2–7	4	Tappan	2	FT3BD–024K
Cascade	CES–2–2–7	4	Trane	2	2TWB3024A1
Cascade	CES–2–2–7	4	York	2	E1RC024S06
Cascade	CES–2–2–7	4	Westinghouse	2	FT3BD–024K
Cascade	CES–2–2–7	4	Whirlpool	2	W2H324A–1A
Cascade	CES–2–2–8	4	Amana	2	ASH130241A
Cascade	CES–2–2–8	4	Aire-Flo	2	2HP13(B,L)24P–1
Cascade	CES–2–2–8	4	AirPro	2	FRHS0241CD
Cascade	CES–2–2–8	4	American Standard	2	2A6B3024A1
Cascade	CES–2–2–8	4	Bryant	2	213ANA024–A
Cascade	CES–2–2–8	4	Carrier	2	25HBA324A30
Cascade	CES–2–2–8	4	Coleman	2	DRHS0241BD
Cascade	CES–2–2–8	4	Ducane	2	2HP13(B,L)24P–1
Cascade	CES–2–2–8	4	Fedders	2	CH24ABD1VF
Cascade	CES–2–2–8	4	Frigidaire	2	FT3BD–024K
Cascade	CES–2–2–8	4	Gibson	2	GT3BD–024K
Cascade	CES–2–2–8	4	Goodman	2	GSH130241A
Cascade	CES–2–2–8	4	Lennox	2	12HPB24–P
Cascade	CES–2–2–8	4	Luxaire	2	EABC–F024S
Cascade	CES–2–2–8	4	Maytag	2	DT3BD–024K
Cascade	CES–2–2–8	4	Rheem	2	13PJA24
Cascade	CES–2–2–8	4	Ruud	2	13PJA24
Cascade	CES–2–2–8	4	Tappan	2	FT3BD–024K
Cascade	CES–2–2–8	4	Trane	2	2TWB3024A1
Cascade	CES–2–2–8	4	York	2	E1RC024S06
Cascade	CES–2–2–8	4	Westinghouse	2	FT3BD–024K
Cascade	CES–2–2–8	4	Whirlpool	2	W2H324A–1A
Cascade	CES–2–2.5–4	5	Amana	2	ASH130301A
Cascade	CES–2–2.5–4	5	Aire-Flo	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–4	5	AirPro	2	FRHS0301CD
Cascade	CES–2–2.5–4	5	American Standard	2	2A6B3030A1
Cascade	CES–2–2.5–4	5	Bryant	2	213ANA030–A
Cascade	CES–2–2.5–4	5	Carrier	2	25HBA330A30
Cascade	CES–2–2.5–4	5	Coleman	2	DRHS0301BD
Cascade	CES–2–2.5–4	5	Ducane	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–4	5	Fedders	2	CH30ABD1VF
Cascade	CES–2–2.5–4	5	Frigidaire	2	FT3BD–030K
Cascade	CES–2–2.5–4	5	Gibson	2	GT3BD–030K
Cascade	CES–2–2.5–4	5	Goodman	2	CPLT30–1
Cascade	CES–2–2.5–4	5	Lennox	2	12HPB30–P
Cascade	CES–2–2.5–4	5	Luxaire	2	EABC–F030S
Cascade	CES–2–2.5–4	5	Maytag	2	DT3BD–030K
Cascade	CES–2–2.5–4	5	Rheem	2	13PJA30
Cascade	CES–2–2.5–4	5	Ruud	2	13PJA30
Cascade	CES–2–2.5–4	5	Tappan	2	FT3BD–030K
Cascade	CES–2–2.5–4	5	Trane	2	2TWB3030A1
Cascade	CES–2–2.5–4	5	York	2	E1RC030S06
Cascade	CES–2–2.5–4	5	Westinghouse	2	FT3BD–030K
Cascade	CES–2–2.5–4	5	Whirlpool	2	WGH430A
Cascade	CES–2–2.5–5	5	Amana	2	ASH130301A
Cascade	CES–2–2.5–5	5	Aire-Flo	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–5	5	AirPro	2	FRHS0301CD
Cascade	CES–2–2.5–5	5	American Standard	2	2A6B3030A1
Cascade	CES–2–2.5–5	5	Bryant	2	213ANA030–A
Cascade	CES–2–2.5–5	5	Carrier	2	25HBA330A30
Cascade	CES–2–2.5–5	5	Coleman	2	DRHS0301BD
Cascade	CES–2–2.5–5	5	Ducane	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–5	5	Fedders	2	CH30ABD1VF
Cascade	CES–2–2.5–5	5	Frigidaire	2	FT3BD–030K
Cascade	CES–2–2.5–5	5	Gibson	2	GT3BD–030K
Cascade	CES–2–2.5–5	5	Goodman	2	CPLT30–1

Combinations of indoor-outdoor units that are subject to the waiver

Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade	CES–2–2.5–5	5	Lennox	2	12HPB30–P
Cascade	CES–2–2.5–5	5	Luxaire	2	EABC–F030S
Cascade	CES–2–2.5–5	5	Maytag	2	DT3BD–030K
Cascade	CES–2–2.5–5	5	Rheem	2	13PJA30
Cascade	CES–2–2.5–5	5	Ruud	2	13PJA30
Cascade	CES–2–2.5–5	5	Tappan	2	FT3BD–030K
Cascade	CES–2–2.5–5	5	Trane	2	2TWB3030A1
Cascade	CES–2–2.5–5	5	York	2	E1RC030S06
Cascade	CES–2–2.5–5	5	Westinghouse	2	FT3BD–030K
Cascade	CES–2–2.5–5	5	Whirlpool	2	WGH430A
Cascade	CES–2–2.5–6	5	Amana	2	ASH130301A
Cascade	CES–2–2.5–6	5	Aire-Flo	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–6	5	AirPro	2	FRHS0301CD
Cascade	CES–2–2.5–6	5	American Standard	2	2A6B3030A1
Cascade	CES–2–2.5–6	5	Bryant	2	213ANA030–A
Cascade	CES–2–2.5–6	5	Carrier	2	25HBA330A30
Cascade	CES–2–2.5–6	5	Coleman	2	DRHS0301BD
Cascade	CES–2–2.5–6	5	Ducane	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–6	5	Fedders	2	CH30ABD1VF
Cascade	CES–2–2.5–6	5	Frigidaire	2	FT3BD–030K
Cascade	CES–2–2.5–6	5	Gibson	2	GT3BD–030K
Cascade	CES–2–2.5–6	5	Goodman	2	CPLT30–1
Cascade	CES–2–2.5–6	5	Lennox	2	12HPB30–P
Cascade	CES–2–2.5–6	5	Luxaire	2	EABC–F030S
Cascade	CES–2–2.5–6	5	Maytag	2	DT3BD–030K
Cascade	CES–2–2.5–6	5	Rheem	2	13PJA30
Cascade	CES–2–2.5–6	5	Ruud	2	13PJA30
Cascade	CES–2–2.5–6	5	Tappan	2	FT3BD–030K
Cascade	CES–2–2.5–6	5	Trane	2	2TWB3030A1
Cascade	CES–2–2.5–6	5	York	2	E1RC030S06
Cascade	CES–2–2.5–6	5	Westinghouse	2	FT3BD–030K
Cascade	CES–2–2.5–6	5	Whirlpool	2	WGH430A
Cascade	CES–2–2.5–7	5	Amana	2	ASH130301A
Cascade	CES–2–2.5–7	5	Aire-Flo	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–7	5	AirPro	2	FRHS0301CD
Cascade	CES–2–2.5–7	5	American Standard	2	2A6B3030A1
Cascade	CES–2–2.5–7	5	Bryant	2	213ANA030–A
Cascade	CES–2–2.5–7	5	Carrier	2	25HBA330A30
Cascade	CES–2–2.5–7	5	Coleman	2	DRHS0301BD
Cascade	CES–2–2.5–7	5	Ducane	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–7	5	Fedders	2	CH30ABD1VF
Cascade	CES–2–2.5–7	5	Frigidaire	2	FT3BD–030K
Cascade	CES–2–2.5–7	5	Gibson	2	GT3BD–030K
Cascade	CES–2–2.5–7	5	Goodman	2	CPLT30–1
Cascade	CES–2–2.5–7	5	Lennox	2	12HPB30–P
Cascade	CES–2–2.5–7	5	Luxaire	2	EABC–F030S
Cascade	CES–2–2.5–7	5	Maytag	2	DT3BD–030K
Cascade	CES–2–2.5–7	5	Rheem	2	13PJA30
Cascade	CES–2–2.5–7	5	Ruud	2	13PJA30
Cascade	CES–2–2.5–7	5	Tappan	2	FT3BD–030K
Cascade	CES–2–2.5–7	5	Trane	2	2TWB3030A1
Cascade	CES–2–2.5–7	5	York	2	E1RC030S06
Cascade	CES–2–2.5–7	5	Westinghouse	2	FT3BD–030K
Cascade	CES–2–2.5–7	5	Whirlpool	2	WGH430A
Cascade	CES–2–2.5–8	5	Amana	2	ASH130301A
Cascade	CES–2–2.5–8	5	Aire-Flo	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–8	5	AirPro	2	FRHS0301CD
Cascade	CES–2–2.5–8	5	American Standard	2	2A6B3030A1
Cascade	CES–2–2.5–8	5	Bryant	2	213ANA030–A
Cascade	CES–2–2.5–8	5	Carrier	2	25HBA330A30
Cascade	CES–2–2.5–8	5	Coleman	2	DRHS0301BD
Cascade	CES–2–2.5–8	5	Ducane	2	2HP13(B,L)30P–1
Cascade	CES–2–2.5–8	5	Fedders	2	CH30ABD1VF
Cascade	CES–2–2.5–8	5	Frigidaire	2	FT3BD–030K
Cascade	CES–2–2.5–8	5	Gibson	2	GT3BD–030K
Cascade	CES–2–2.5–8	5	Goodman	2	CPLT30–1
Cascade	CES–2–2.5–8	5	Lennox	2	12HPB30–P

Combinations of indoor-outdoor units that are subject to the waiver					
Indoor unit			Outdoor unit		
Manufacturer	Cascade model	Tons	System heat pump manufacturer	Qty of outside units per cascade unit	Model number
Cascade	CES–2–2.5–8	5	Luxaire	2	EABC–F030S
Cascade	CES–2–2.5–8	5	Maytag	2	DT3BD–030K
Cascade	CES–2–2.5–8	5	Rheem	2	13PJA30
Cascade	CES–2–2.5–8	5	Ruud	2	13PJA30
Cascade	CES–2–2.5–8	5	Tappan	2	FT3BD–030K
Cascade	CES–2–2.5–8	5	Trane	2	2TWB3030A1
Cascade	CES–2–2.5–8	5	York	2	E1RC030S06
Cascade	CES–2–2.5–8	5	Westinghouse	2	FT3BD–030K
Cascade	CES–2–2.5–8	5	Whirlpool	2	WGH430A

(3) Alternate Test Procedure

(A) Cascade shall be required to test the products listed in paragraph (2) according to those test procedures for residential central air conditioners and heat pumps prescribed by DOE at 10 CFR part 430, Subpart B, Appendix M, except that Cascade shall test such products in accordance with the provisions of subparagraph (B) of this paragraph. Furthermore, Cascade shall make representations concerning its CES multi-blower products covered by this waiver according to the provisions of subparagraph (C) below.

(B) Cascade shall test the CES products covered by this waiver under 10 CFR Part 430, Subpart B, Appendix M, as supplemented by the following:

(1) Appendix A

Cascade shall test according to the modifications to the test procedure for residential central air conditioners and heat pumps contained in Appendix A (which is consistent with the appendix submitted as part of Cascade's Petition for Waiver), as supplemented by the rules set forth in subparagraph (B)(3) and the set-up requirements in subparagraph (B)(4).

(2) Table of System Configurations

Cascade shall test according to the CES system configurations in the following table:

BILLING CODE 6450–01–P

Cascade Energy Saver Table of System Configurations:

Number of Single-Speed Outdoor Units	Number of two-Speed Outdoor Units	Nominal Capacity of Each Outdoor Unit (Tons)	Nominal System Full-load Capacity (Tons)	Number of Indoor Blowers or Outlets	Low-Capacity Configuration (k=1)			High-Capacity Configuration (k=2)			DOE Test Procedure	
					Number of Outdoor Units Turned On	Number of Indoor Blowers Turned On	Nominal Air Volume Rate (cfm)	Number of Outdoor Units Turned On	Number of Indoor Blowers Turned On	Nominal Air Volume Rate (cfm)	Key Sections: Cooling Mode	Key Sections: Heating Mode
1	0	2	2	2	1	1	400	1	2	800	3.2.2.1 & 4.1.2.1	3.6.2 & 4.2.2
1	0	2	2	3	1	2	400	1	3	800		
1	0	2	2	4	1	2	400	1	4	800		
1	0	2.5	2.5	2	1	1	500	1	2	1000		
1	0	2.5	2.5	3	1	2	500	1	3	1000		
1	0	2.5	2.5	4	1	2	500	1	4	1000		
2	0	1.5	3	2	1	1	600	2	2	1200	3.2.3 & 4.1.3	3.6.3 & 4.2.3
2	0	1.5	3	3	1	2	600	2	3	1200		
2	0	1.5	3	4	1	2	600	2	4	1200		
2	0	2	4	2	1	1	800	2	2	1600		
2	0	2	4	3	1	2	800	2	3	1600		
2	0	2	4	4	1	2	800	2	4	1600		
2	0	2	4	5	1	3	800	2	5	1600		
2	0	2	4	6	1	3	800	2	6	1600		
2	0	2	4	7	1	4	800	2	7	1600		
2	0	2	4	8	1	4	800	2	8	1600		
0	1	High = 5 Low = 3	5	4	1 (Low)	2	1200	1 (High)	4	2000		
2	0	2.5	5	2	1	1	1000	2	2	2000		
2	0	2.5	5	3	1	2	1000	2	3	2000		
2	0	2.5	5	4	1	2	1000	2	4	2000		
2	0	2.5	5	5	1	3	1000	2	5	2000		
2	0	2.5	5	6	1	3	1000	2	6	2000		
2	0	2.5	5	7	1	4	1000	2	7	2000		
2	0	2.5	5	8	1	4	1000	2	8	2000		

BILLING CODE 6450–01–C

(3) Rules for Generalizing the Specific Test Procedure Modifications

Cascade shall test its CES products according to the following rules:

Rule One: These rules apply to testing of residential CES systems ranging from two-ton/single-speed/two-blower models up to and including dual-2.5-ton heat pump/eight-zone models. It also applies to all CES model configurations in between for cooling and heating with single-phase units that are less than 65,000 btu/hr.

Rule Two: A 400 cubic feet/minute (cfm) per ton nominal evaporator air flow rate will be used, not to exceed 450 cfm per ton on the high end (same as 37.5 cfm per 1000 BTU/hr capacity).

Rule Three: The CES configurations should be tested so that regardless of the number of blowers and heat pumps, the resultant test procedure will model the CES system as a one-blower evaporator with a two-speed fan and one heat pump with one or more speeds. The test procedure will follow the procedure found in 10 CFR part 430, Subpart B, Appendix M. For example, two heat pumps are to be modeled as a single heat pump with two speeds. Also, dual two-speed heat pumps are to be modeled as a single heat pump with four speeds. Further, given that the number of indoor blowers may range from two to eight per unit, these will be modeled as a single blower with two speeds such that half the fans will be used to blow air at low speed; when operated at high speed, all fans will operate such that the air flow delivered per fan equals in total the air flow needed for the total heat pump capacity (i.e., 800 cfm for a two-ton heat pump).

Rule Four: For an even number of blowers, the air flow per blower is the same, and the sum of the air flow per blower equals the total air flow. For odd number of blowers, see Rule Five.

Rule Five: If the number of fans is an odd number, divide the number of fans by two. Round the quotient up to a whole number, and define this whole number as the quantity of ''low-speed fans.'' In the case of three blowers, low-speed mode will have two blowers and the remaining blower will be used only in high-speed mode. These are electrically commutated motors [4] (ECMs), so adjust the speed of the fans that are part of ''low-speed'' mode so that each blower produces an equal share of the low-speed air quantity. Likewise, the third blower, which operates during high-speed mode, blows an air flow equal to half of the total air flow for the tonnage of the heat pump(s). This is accomplished by adjustment of the ECM for the single fan, which runs in high-speed mode to produce half the total air flow needed for the total tonnage.

Rule Six: Once the CES system is modeled as required under Rules One through Five, perform Tests A, B, C and D (or if the default is accepted, then Test D is not required) as found in the procedure of 10 CFR 430, Subpart B, Appendix M for cooling and heating for the variations in speeds and settings found therein.

(4) Test Procedure Set-Up Requirements

When testing its CES products, Cascade shall adhere to the following test procedure set-up requirements:

(a) *Piping:* Determine the number of heat pumps. Connect the heat pump to the evaporator coil circuit, whether single- or dual-circuit. Thus, if there are two heat pumps, there is a heat pump piped into one of the circuits of the evaporator coil, while the second heat pump is piped into the second circuit of the evaporator coil.

(b) *Unit sizing:* If two heat pumps are used, they shall be equal in tonnage. Thus, a four-ton Cascade unit will have dual two-ton heat pumps attached.

(c) *Fans' cfm sizing:* As set forth in Rules Two through Five, blowers shall be driven by ECM motors, and the cfm for each blower shall be as calculated under Rules Four and Five.

(d) *Ducting the blowers:* The discharge of each blower will be connected so that the total cfm from all blowers is collected into a single duct, sized consistent with appropriate industry pressure-drop standards and ducted to the wind tunnel.

(e) *Pressures, delta Ps, temperatures, and other metric points:* These values are measured by installing devices appropriately calibrated to National Institute of Standards and Technology-traceable standards for refrigerant and condensate pipes, circuits and air flows in the evaporator coil, and condenser coils to measure quantities to be used for the calculation of capacities in heating and cooling modes in tests A, B, C, and D.

(C) *Representations.* In making representations about the energy efficiency of its CES multi-blower products, for compliance, marketing, or other purposes, Cascade must fairly disclose the results of testing under the DOE test procedure, as modified by the alternate test procedure in this waiver.

(4) This waiver shall remain in effect from the date of issuance of this Decision and Order until the effective date of a DOE final rule prescribing amended test procedures appropriate to the above model series manufactured by Cascade.

(5) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics.

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

Alexander A. Karsner,

Assistant Secretary,Energy Efficiency and Renewable Energy

[FR Doc. E8–19266 Filed 8–27–08; 8:45 am]

BILLING CODE 6450–01–P

[4] An ''electronically commutated motor'' is a high-efficiency, programmable, brushless, direct-current (DC) motor utilizing a permanent magnet motor and a built-in inverter. DC motors are significantly more energy efficient than alternating current (AC) motors and much easier to control.

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, September 22, 2008, 1 p.m.–5 p.m. Tuesday, September 23, 2008, 8:30 a.m.–4 p.m.

ADDRESSES: The Sheraton North Charleston,4770 Goer Drive,North Charleston, SC 29406.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

Monday, September 22, 2008

1 p.m. Combined Committee Session

5 p.m. Adjourn

Tuesday, September 23, 2008

8:30 a.m.
Approval of Minutes, Agency Updates
Public Comment Session
Chair and Facilitator Updates
Waste Management Committee Report
Facility Disposition and Site Remediation Committee Report
Public Comment Session
12 p.m. Lunch Break
1 p.m.
Administrative Committee Report
Strategic and Legacy Management Committee Report
Nuclear Materials Committee Report
Public Comment Session
4 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda and administrative details. A final agenda will be available at the meeting Monday, September 22, 2008.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Gerri Flemming at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.srs.gov/general/outreach/srs-cab/srs-cab.html.*

Issued at Washington, DC, on August 25, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–19973 Filed 8–27–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern NM

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 24, 2008, 2 p.m.–8 p.m.

ADDRESSES: Jemez Complex,Santa Fe Community College,6401 Richards Avenue,Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or E-mail: *msantistevan@doeal.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

2 p.m.
Call to Order by Deputy Designated Federal Officer (DDFO), Christina Houston
Establishment of a Quorum, Lorelei Novak
Welcome, J.D. Campbell
Approval of Agenda, Ed Moreno
Approval of July 30, 2008 Board Meeting Minutes, Ed Moreno
2:15 p.m.
Old Business, Ed Moreno
A. Written Reports
B. Consideration and Action on Proposed Amendments to NNMCAB Bylaws
C. Other Matters
2:30 p.m.
New Business, Ed Moreno
A. Election of Officers for Fiscal Year (FY) 2009
B. Matters from the Board Members
3 p.m.
Consideration and Action on Recommendations to DOE
A. Recommendation 2008–04
B. Other Draft Recommendations
4:10 p.m. Break
4:30 p.m. Presentation by DOE and Los Alamos National Security on Implementation of NNMCAB Recommendations
5:30 p.m. Public Comment Period
5:45 p.m. Dinner Break
6:45 p.m. Consideration and Action on FY 2009 Committee Work Plans, Ed Moreno
7:45 p.m. Matters from Board Members, Ed Moreno
8 p.m. Adjourn, Christina Houston

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org/minutes/board-minutes.htm.*

Issued at Washington, DC, on August 22, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–19974 Filed 8–27–08; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–464–000]

Columbia Gulf Transmission Company, Tennessee Gas Pipeline Company; Notice of Application

August 21, 2008.

Take notice that on August 20, 2008, Columbia Gulf Transmission Company (Columbia Gulf), 5151 San Felipe, Suite 2500, Houston, Texas 77056, and Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP08–464–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) requesting permission and approval to abandon in place the segment of 36-inch pipeline that loops approximately 25.1 miles of the Western Shoreline of the Blue Water System, extending south from the Pecan Island Liquids Separation and Handling Plant in Vermilion Parish, Louisiana, to a point offshore Louisiana in Vermilion Block 76 (referred to as Segment 5434). In addition, Columbia Gulf and Tennessee propose to abandon side taps and other various appurtenances attached to Segment 5434, all as more fully set forth in the application which is on file with the Commission and open

to public inspection. 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.

Any questions regarding this application should be directed to counsel for Columbia Gulf, Fredric J. George, at (304) 357–2359, fax: (304) 357–3206.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link at *http://www.ferc.gov.* The Commission strongly encourages intervenors to file electronically. 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.

Comment Date: September 11, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19925 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13165–000]

FFP Ohio River 13, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

August 21, 2008.

On April 15, 2008, FFP Ohio River 13, LLC each filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ohio River 10 and Ohio River 13 Projects, to be located on the Ohio River in Clark County, Indiana and Oldham County, Kentucky.

The proposed Ohio River 13 Project consists of: (1) 2,850 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 57 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 13, LLC, project would have an average annual generation of 249.66 gigawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Dan Irvin, FFP Ohio River 13, LLC, 69 Bridge Street, Manchester, MA 01944, (978) 232–3536.

FERC Contact: Robert Bell, (202) 502–6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13165) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19936 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13167–000]

FFP Ohio River 15, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

August 21, 2008.

On March 25, 2008, FFP Ohio River 15, LLC each filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ohio River 15 Project, to be located on the Ohio River in Jefferson County, Indiana and Trimble County, Kentucky.

The proposed Ohio River 15 Project consists of: (1) 2,400 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 48

megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 15, LLC, project would have an average annual generation of 210.24 gigawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Dan Irvin, FFP Ohio River 15, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232–3536.

FERC Contact: Robert Bell, (202) 502–6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13167) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19937 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13170–000]

FFP Ohio River 18, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

August 21, 2008.

On April 15, 2008, FFP Ohio River 18, LLC, filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ohio River 18 Project, to be located on the Ohio River in Jefferson County, Indiana, and Trimble County, Kentucky.

The proposed Ohio River 18 Project consists of: (1) 1,200 proposed 20-kilowatt Free Flow generating units having a total installed capacity of 24 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 18, LLC, project would have an average annual generation of 105.1 gigawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Dan Irvin, FFP Ohio River 18, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232–3536.

FERC Contact: Robert Bell, (202) 502–6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13170) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19938 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13171–000]

FFP Ohio River 19, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

August 21, 2008.

On March 25, 2008, FFP Ohio River 19, LLC each filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ohio River 19 Project, to be located on the Ohio River in Switzerland County, Indiana and Gallatin and Boone Counties, Kentucky.

The proposed Ohio River 19 Project consists of: (1) 1,680 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 33.6 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 19, LLC, project would have an average annual generation of 147.17 gigawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Dan Irvin, FFP Ohio River 19, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232–3536.

FERC Contact: Robert Bell, (202) 502–6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13171) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19939 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13172–000]

FFP Ohio River 20, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

August 21, 2008.

On March 25, 2008, FFP Ohio River 20, LLC each filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ohio River 20 Project, to be located on the Ohio River in Switzerland County, Indiana and Boone County, Kentucky.

The proposed Ohio River 20 Project consists of: (1) 1,920 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 38.4 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 20, LLC, project would have an average annual generation of 168.19 gigawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Dan Irvin, FFP Ohio River 20, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232–3536.

FERC Contact: Robert Bell, (202) 502–6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13172) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19940 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13117–000]

Forest County Hydroelectric Corporation; Notice of Competing Preliminary Permit Application Accepted for Filing and Soliciting Comments and Motions To Intervene

August 21, 2008.

On February 13, 2008, Forest County Hydroelectric Corporation filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Tionesta Dam Project, to be located on Tionesta Creek in Forest County, Pennsylvania. It would use the U.S. Army Corps of Engineers' Tionesta Dam.

The proposed Tionesta Dam Project consists of: (1) Two proposed 15-foot-long, 36-inch-diameter steel penstocks and one proposed 1800-foot-long, 8-inch-diameter steel penstock, (2) two proposed powerhouse containing three generating units having a total installed capacity of 519 kilowatts, (3) a proposed 1,500-foot-long transmission line, and (4) appurtenant facilities. The proposed, project would have an average annual generation of 3.96 megawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Richard Schall, Forest County Hydroelectric Corporation, HC2, Box 23, Tionesta, PA 16353, phone (800) 541–2378.

FERC Contact: Robert Bell, (202) 502–6062.

Competing Application: This application competes with Project No. 12897–000 filed July 30, 2007. Competing applications must be filed on or before January 15, 2008.

Deadline for filing comments, motions to intervene: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13117) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19935 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13116–000; Project No. 13115–000]

Mississippi River 14 Hydro, LLC, BPUS Generation Development, LLC; Notice of Competing Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

August 21, 2008.

On February 15, 2008, Mississippi River 14 Hydro, LLC and BPUS Generation Development, LLC each filed a competing application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Mississippi River Lock and Dam No. 14 Hydroelectric Project, to be located on the Mississippi River in Rock Island County and Scott County, Illinois. The Mississippi Lock and Dam 14 is owned by the U.S. Army Corps of Engineers.

Mississippi River 14 Hydro, LLC's proposed project would utilize the existing U.S. Army Corps of Engineers' Mississippi Lock and Dam No. 14 and would consist of: (1) A proposed powerhouse containing three generating units with an installed capacity of 26-megawatts; (2) a switchyard; (3) a proposed 1-mile, 69-kV transmission line; and (4) appurtenant facilities. The proposed Mississippi River Lock and Dam 14 Hydroelectric Project would have an estimated annual generation of approximately 139-gigawatt-hours, which would be sold to a local utility.

BPUS Generation Development, LLC's proposed project would utilize the U.S. Army Corps of Engineers' Mississippi River Lock and Dam No. 14 would consist of:(1) A proposed powerhouse containing five generating units with a

combined installed capacity of 26-megawatts; (2) a new 13,100-foot-long, 230-kilovolt transmission line; and (3) appurtenant facilities. The proposed Mississippi River Lock and Dam No. 14 Hydroelectric Project would have an average annual generation of 145-gigawatt-hours, which would be sold to a local utility.

Applicants Contacts: For Mississippi River 14 Hydro, LLC, Mr. Brent L. Smith, COO, Symbiotics, LLC, P. O. Box 535, Rigby, ID 83442, phone: (208) 745–0834. For BPUS Generation Development, LLC, Mr. Jeffrey M. Auser, P.E., BPUS Generation Development, LLC, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088, (315) 413–2821.

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13116 or P–13115) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19934 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12626–001]

Northern Illinois Hydropower, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approval of Use of the Traditional Licensing Process

August 21, 2008.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 12626–001.

c. *Dated Filed:* July 16, 2008.

d. *Submitted By:* Northern Illinois Hydropower, LLC.

e. *Name of Project:* Dresden Island Hydroelectric Project.

f. *Location:* The project would be located at the U.S. Corps of Engineers Dresden Island Lock and Dam, on the Illinois River in Grundy County, Illinois.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Damon Zdunich, President, Northern Illinois Hydropower, LLC, 801 Oakland Avenue, Joliet, IL 60435, (312) 408–4353.

i. *FERC Contact:* Tom Dean, (202) 502–6041.

j. Northern Illinois Hydropower, LLC filed its request to use the Traditional Licensing Process on July 16, 2008. Northern Illinois Hydropower, LLC filed public notice of its request on August 4, 2008. In a letter dated August 20, 2008, the Director of the Office of Energy Projects approved Northern Illinois Hydropower, LLC'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 (b) the Illinois 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. Northern Illinois Hydropower, LLC 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.

Register online at *http://ferc.gov/docs-filing/esubscription.asp* 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. E8–19932 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12717–001]

Northern Illinois Hydropower, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approval of Use of the Traditional Licensing Process

August 21, 2008.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 12717–001.

c. *Date Filed:* July 16, 2008.

d. *Submitted By:* Northern Illinois Hydropower, LLC.

e. *Name of Project:* Brandon Road Hydroelectric Project.

f. *Location:* The project would be located at the U.S. Corps of Engineers Brandon Road Lock and Dam, on the Des Plaines River in Will County, Illinois.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Damon Zdunich, President, Northern Illinois Hydropower, LLC, 801 Oakland Avenue, Joliet, IL 60435, (312) 408–4353.

i. *FERC Contact:* Michael Spencer, (202) 502–6093.

j. Northern Illinois Hydropower, LLC filed its request to use the Traditional Licensing Process on July 16, 2008. Northern Illinois Hydropower, LLC filed public notice of its request on August 4, 2008. In a letter dated August 20, 2008, the Director of the Office of Energy Projects approved Northern Illinois Hydropower, LLC'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 (b) the Illinois 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. Northern Illinois Hydropower, LLC 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, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/docs-filing/esubscription.asp* 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. E8–19933 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–447–000]

Ozark Gas Transmission, L.L.C.; Enogex LLC; Notice of Application

August 21, 2008.

Take notice that on July 28, 2008, Ozark Gas Transmission, L.L.C. (Ozark), 110 W. 7th, Suite 2300, Tulsa, Oklahoma 74119, and Enogex LLC (Enogex), 515 Central Park Drive, Suite 600, Oklahoma City, Oklahoma 73105, filed in the above referenced docket an application pursuant to section 7(b) of the Natural Gas Act (NGA), and section 157 of the Commission's regulations for an order granting permission and approval to abandon a certain lease of pipeline capacity from Enogex to Ozark. Enogex is also seeking permission and approval to abandon the limited jurisdiction certificate under which Enogex was authorized to lease capacity to Ozark, 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to David A. Harrell, Sr., Director, Regulatory Affairs, Ozark Gas Transmission, L.L.C., 100 W. 7th, Suite 2300, Tulsa, Oklahoma 74119 at (918) 574–3900 or Patricia D. Horn, Vice President and General Counsel, Legal, Regulatory, Environmental, Health and Safety, Enogex LLC, PO Box 24300, Oklahoma City, Oklahoma 73124 at (405) 558–4636.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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: August 28, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19941 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 21, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–118–000.

Applicants: North Western Corporation; Bicent (Montana) Power Company LLC.

Description: NorthWestern Corp's *et al.* application for authorization for disposition of an existing generation facility and related jurisdictional assets and request for expedited action.

Filed Date: 08/15/2008.

Accession Number: 20080820–0041.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–86–000.

Applicants: Barton Chapel Wind, LLC.

Description: Notice of Self-Recertification of Exempt Wholesale Generator Status of Barton Chapel Wind, LLC.

Filed Date: 08/13/2008.

Accession Number: 20080813–5031.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–2734–006.

Applicants: Southern Indiana Gas & Electric Company.

Description: Southern Indiana Gas and Electric Co. submits revisions to its market based rate tariff providing for sales of capacity, energy and/or ancillary services.

Filed Date: 08/13/2008.

Accession Number: 20080814–0060.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER99–1005–009; ER03–1079–009.

Applicants: Kansas City Power & Light Company; Aquila Inc.

Description: Kansas City Power & Light Company *et al.* notifies FERC of a consummation of transaction constituting a non-material change in status in the market-based rate authority.

Filed Date: 08/13/2008.

Accession Number: 20080814–0288.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER99–2287–004; ER03–802–007; ER08–401–001.

Applicants: Black Hills Power, Inc.; Black Hills Wyoming, Inc.; Cheyenne Light Fuel & Power Company.

Description: Black Hills Utilities submits revisions to the market-based rate wholesale power sale tariffs of Black Hills Power *et al.* in compliance with FERC's Order 697.

Filed Date: 08/13/2008.

Accession Number: 20080814–0286.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER00–3251–017; ER99–754–017; ER98–1734–016; ER01–1919–013; ER01–1147–007; ER01–513–022; ER99–2404–012.

Applicants: Exelon Generation Company, LLC; AmerGen Energy Company, LLC; Commonwealth Edison Company; Exelon Energy Company; PECO Energy Company; Exelon West Medway, LLC, Exelon New Boston, LLC; Exelon Framingham; Exelon New England Power Marketing, L.P.

Description: Exelon MBR Companies submits a revised set of screens for the PJM market and PJM-East submarket and supporting information responsive to the Staff Data Request re the 1/14/08 filing of their market-based rate authorization etc.

Filed Date: 08/15/2008.

Accession Number: 20080819–0127.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER02–553–010.

Applicants: Rolling Hills Generating L.L.C.

Description: Updated Market Power Analysis re Rolling Hills Generating, LLC.

Filed Date: 08/18/2008.

Accession Number: 20080818–5139.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER02–506–011; ER98–2783–014; ER99–3822–014; ER07–841–004; ER01–140–010; ER07–842–004; ER00–1895–012; ER07–843–000; ER07–844–004; ER07–845–004; ER07–846–004; ER99–4160–015; ER01–141–010; ER07–847–004; ER00–3696–011; ER01–943–010; ER05–1266–008; ER08–451–003; ER01–3109–012; ER01–1044–011; ER99–2157–011; ER03–42–015.

Applicants: Bluegrass Generation Company, L.L.C.; Bridgeport Energy, LLC; CASCO BAY ENERGY COMPANY, LLC; Dynegy Arlington Valley, LLC; Dynegy Danskammer, L.L.C.; Dynegy Kendall Energy, LLC; Dynegy Midwest Generation, Inc.; Dynegy Mohave, LLC, Dynegy Morro Bay, LLC, Dynegy Moss Landing, LLC, Dynegy Oakland, LLC, Dynegy Power Marketing, Inc., Dynegy Roseton, L.L.C.; Dynegy South Bay, LLC, Griffith Energy LLC, Heard County Power, LLC, Ontelaunee Power Operating Company, LLC, Plum Point Energy Associates, LLC; Renaissance Power, L.L.C.; Riverside Generating Company, LLC; Rocky Road Power, LLC; Sithe/Independence Power Partners, L.P.

Description: The Dynegy MBR Sellers submit the revised market-based rate tariff sheets.

Filed Date: 08/15/2008.

Accession Number: 20080820–0043.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER03–1182–006; ER04–698–006; ER99–415–016.

Applicants: Tyr Energy, LLC; Tor Power, LLC; Commonwealth Chesapeake Company, LLC.

Description: Tyr Energy LLC *et al.* submits a clean and redlined version of revised tariff sheets to comply with Order 697–A.

Filed Date: 08/15/2008.

Accession Number: 20080818–0086.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER04–805–008.

Applicants: Wabash Valley Power Association, Inc.

Description: Wabash Valley Power Association, Inc. submits certain revised tariff sheet applicable to the sale of certain ancillary services in the Ancillary Service Market of the Midwest Independent System Operator, Inc.

Filed Date: 08/15/2008.

Accession Number: 20080819–0093.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER05–1410–008; EL05–148–008.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits Substitute Third Revised Sheet 611 *et al.* to FERC Electric Tariff, Sixth Revised Volume 1 in compliance with the Commission's 7/18/08 Order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0315.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER06–615–028.

Applicants: California Independent System Operator C.

Description: California Independent System Operator Corp submits proposed

revisions to Section 11.24.2 that eliminate the five percent ''free pass'' provision originally proposed in compliance with FERC's 7/17/08 Order.

Filed Date: 08/18/2008.

Accession Number: 20080821–0103.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER07–1142–002.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Co. submits an amendment to the Offer of Settlement and Settlement Agreement submitted on 5/29/08 in compliance with the Commission's 7/25/08 Order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0323.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER07–1291–005; OA07–54–006.

Applicants: PacifiCorp.

Description: PacifiCorp submits revised tariff sheet to its Seventh Revised 11 open Access Transmission Tariff to reflect the Commission's Order 890 rollover reforms.

Filed Date: 08/13/2008.

Accession Number: 20080814–0285.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER08–637–004.

Applicants: Midwest Independent Transmission System.

Description: MidAmerican Energy Company submits the Market Coordination Service portion of their Western Markets Proposal pursuant to the Commission's 6/13/08 order.

Filed Date: 08/15/2008.

Accession Number: 20080819–0324.

Comment Date: 5 p.m. Eastern Time on Friday, September 05, 2008

Docket Numbers: ER08–989–002.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service between Westar and the City of Blue Mound, Kansas etc.

Filed Date: 08/15/2008.

Accession Number: 20080819–0091.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–992–002.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service with the City of Bronson, Kansas etc.

Filed Date: 08/15/2008.

Accession Number: 20080819–0094.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–994–002.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service between Westar and the City of Mulberry, Kansas etc.

Filed Date: 08/15/2008.

Accession Number: 20080819–0090.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–966–002.

Applicants: Northeast Utilities Service Company.

Description: Northeast Utilities Service Co. submits a compliance filing pursuant to FERC's 7/17/08 Order.

Filed Date: 08/18/2008.

Accession Number: 20080821–0104.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–998–002.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service between Westar and the City of Robison, Kansas etc.

Filed Date: 08/15/2008.

Accession Number: 20080819–0092.

Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1016–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits revised sheets to Schedule 1 of the Amended and Restated Operating Agreement as well as the parallel provisions of the Appendix to Attachment K etc pursuant to FERC's 7/25/08 order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0307.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1029–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits the Alternate Pro Forma Sheet 30 to their pro forma Formula Rate Agreement for Full Requirements Electric Service with City of Elsmore, Kansas pursuant to the Commission's 7/25/08 order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0314.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1031–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to their pro forma Formula Rate Agreement for Full Requirements Electric Service with City of La Harpe, Kansas pursuant to the Commission's 7/25/08 order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0313.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1033–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service with the City of Vermillion, Kansas pursuant to the Commission's 7/25/08 order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0312.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1035–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service with the City of Savonburg, Kansas pursuant to the Commission's 7/25/08 order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0311.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1037–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service between Westar and the City of Burlingame, Kansas etc.

Filed Date: 08/18/2008.

Accession Number: 20080819–0309.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1047–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits Alternate Pro Forma Sheet 30 to Westar's pro forma Formula Rate Agreement for Full Requirements Electric Service with the City of Moran, Kansas pursuant to the Commission's 7/25/08 order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0310.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1062–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits their Alternate Pro Forma Sheet 29 to their pro forma Formula Rate Agreement for Full Requirements Electric Service with Kaw Valley Electric Coop *et al.* pursuant to FERC's 7/25/08 order.

Filed Date: 08/18/2008.

Accession Number: 20080819–0308.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1240–002.
Applicants: MH Partners LP.
Description: MH Partners LP submits an application for market-based rate authority and also requests that the Commission grant its initial rate schedule to engage in wholesale sales of electric energy and capacity etc.
Filed Date: 08/18/2008.
Accession Number: 20080819–0316.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1393–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits revisions to the Amended and Restated Operating Agreement.
Filed Date: 08/13/2008.
Accession Number: 20080814–0065.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER08–1394–000.
Applicants: Midwest Independent Transmission System.
Description: Midwest Independent Transmission System Operator, Inc. submits a Transmission to Transmission Interconnection Agreement with Great River Energy *et al.* designated as Original Service Agreement 1973.
Filed Date: 08/13/2008.
Accession Number: 20080814–0064.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER08–1395–000.
Applicants: American Electric Power Service Corporation.
Description: Ohio Power Company *et al.* submits a fourteenth revised Interconnection and Local Delivery Service Agreement with Buckeye Power Inc.
Filed Date: 08/13/2008.
Accession Number: 20080814–0062.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER08–1396–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits their Petition for Approval of Settlement Agreement with the City of Wathena, Kansas.
Filed Date: 08/13/2008.
Accession Number: 20080814–0061.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: ER08–1409–000.
Applicants: California Independent System Operator C.
Description: California Independent System Operator Corporation submits an informational filing that is intended to provide notice re their revised transmission Access Charges effective 6/1/08.
Filed Date: 08/15/2008.
Accession Number: 20080818–0083.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1410–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits several FERC-jurisdictional agreements.
Filed Date: 08/15/2008.
Accession Number: 20080820–0007.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1411–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits revisions to its Market Administration and Control Area Services Tariff to improve the NYISO's implementation of its existing margin restoration payment rules.
Filed Date: 08/15/2008.
Accession Number: 20080819–0318.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1412–000.
Applicants: Rainy River Energy Corporation.
Description: Rainy River Energy Corporation submits the Notice of Termination of FERC'S market-based rate tariff, First Revised Rate Schedule 1, effective 8/16/08.
Filed Date: 08/15/2008.
Accession Number: 20080819–0319.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1413–000.
Applicants: Central Illinois Public Service Company, Ameren Services Company, Illinois Power Company, Union Electric Company.
Description: Ameren Services Company on behalf of Central Illinois Public Service Co *et al.* submits certain revised pages to two Facility Use Agreements.
Filed Date: 08/15/2008.
Accession Number: 20080819–0320.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1414–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Co. submits Amendment 1 to a 1991 Operation, Maintenance, and Replacement of Facilities Agreement with Western Area Power Authority.
Filed Date: 08/15/2008.
Accession Number: 20080819–0321.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1415–000.
Applicants: Midwest Independent Transmission System.
Description: Midwest Independent Transmission System Operator, Inc. submits its Adjacent Balancing Authority Coordination Agreement with KCP&L Balancing Authority, which reflects emergency energy provisions etc.
Filed Date: 08/15/2008.
Accession Number: 20080819–0322.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1417–000.
Applicants: Kentucky Utilities Company.
Description: Kentucky Utilities Co. submits 12 settlement agreements executed with municipalities.
Filed Date: 08/15/2008.
Accession Number: 20080820–0040.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1418–000; ER96–1858–024.
Applicants: MID–AMERICAN POWER, LLC; DTE Stoneman, LLC
Description: DTE Stoneman, LLC *et al.* submits a notice of change in status and notice of succession.
Filed Date: 08/15/2008.
Accession Number: 20080820–0039.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1419–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits amendments to its Open Access Transmission Tariff to establish (i) a process for including a balanced portfolio of economic upgrades into the SPP Transmission Expansion Plan etc.
Filed Date: 08/15/2008.
Accession Number: 20080820–0038.
Comment Date: 5 p.m. Eastern Time on Friday, September 5, 2008.

Docket Numbers: ER08–1420–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits a Small Generator Interconnection Agreement and a Service Agreement for Wholesale Distribution Service with County Sanitation Districts of Los Angeles County.
Filed Date: 08/18/2008.
Accession Number: 20080819–0306.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1421–000.
Applicants: American Electric Power Service Corporat.
Description: American Electric Power Service Corp. as agent for AEP Texas North Co submits revised tariff sheets to the 1/9/04 Interconnection Agreement with Texas-New Mexico Power Co.
Filed Date: 08/18/2008.
Accession Number: 20080819–0325.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER08–1422–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits a filing to revise the day-ahead market process to improve efficiency of resource commitment etc.
Filed Date: 08/18/2008.
Accession Number: 20080821–0105.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA07–48–002.
Applicants: Tucson Electric Power Company.
Description: Tucson Electric Power Co. submits Third Revised Sheet 20 *et al.* to FERC Electric Tariff, Fourth Revised Volume 2, to be effective 8/18/08.
Filed Date: 08/18/2008.
Accession Number: 20080821–0101.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: OA07–49–002.
Applicants: UNS Electric, Inc.
Description: UNS Electric, Inc. submits Second Revised Sheet 21 *et al.* to FERC Electric Tariff, First Revised Volume 1, to be effective 8/18/08.
Filed Date: 08/18/2008.
Accession Number: 20080821–0102.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: OA08–21–001.
Applicants: Maine Public Service Company.
Description: Maine Public Service Company's Compliance Filing With Revisions To Transmission Planning Process.
Filed Date: 08/13/2008.
Accession Number: 20080813–5035.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: OA08–4–001.
Applicants: Midwest ISO Transmission Owners.
Description: Midwest ISO Transmission Owners submits limited issue section 205 filing to redesign certain point-to-point transmission charges to eliminate costs associated with Capacity Benefit Margin set-aside.
Filed Date: 08/13/2008.
Accession Number: 20080814–0287.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: OA08–42–001.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. *et al.* submits compliance filing.
Filed Date: 08/13/2008.
Accession Number: 20080814–0284.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: OA08–53–001.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits proposed revisions to the Midwest ISO's Open Access Transmission and Energy Markets Tariff, to comply with Commission directives.
Filed Date: 08/13/2008.
Accession Number: 20080814–0283.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 3, 2008.

Docket Numbers: OA08–71–001.
Applicants: Xcel Energy Services Inc.
Description: Order No. 890 OATT Compliance Filing.
Filed Date: 08/18/2008.
Accession Number: 20080818–5138.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 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.

Kimberly D. Bose,
Secretary.
[FR Doc. E8–19942 Filed 8–27–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR08–15–000]

ExxonMobil Oil Corporation and BP West Coast Products LLC, Complainants, v. SFPP, L.P., Respondent; Notice of Complaint

August 21, 2008.

Take notice that on August 20, 2008, pursuant to sections 206 and 212 of the Rules of Practice and Procedure, 18 CFR 385.206 and 385.212 and sections 205 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), ExxonMobil Oil Corporation and BP West Coast Products LLC (Complainants) filed a complaint against SFPP, L.P. (Respondent) challenging Respondent's 2008 index rate increases as unjust and unreasonable under section 1(5) of the Interstate Commerce Act. Complainants request that the Commission review and investigate SFPP's index rate increases; resolve the legal issues, and, if necessary, set the proceeding for an evidentiary hearing; require the payment of refunds and reparations for the index rate increase; and award such other relief as is necessary and appropriate under the Interstate Commerce Act.

The Complainant states that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 9, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19931 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1397–000]

Elkhorn Ridge Wind, LLC; Notice of Filing

August 21, 2008.

Take notice that on August 13, 2008, ISO Elkhorn Ridge Wind, LLC filed a petition for acceptance of initial tariff, Original Volume No. 1, waivers of certain Commission regulations and certain blanket authority, pursuant to section 205 of the Federal Power Act (FPA) 16 U.S.C. 824d (2000), Rule 205 of the Rules of Practice and Procedure, 18 CFR 385.205 (2008), and Part 35 of the Commission's regulations, 18 CFR Part 35 (2008), as amended by Order Nos. 697 and 697–A, *Market Based Rates for Wholesale Sales of Electric, Capacity and Ancillary Services*, Order No. 697, 119 FERC ¶ 61,295 (2007), *order on clarification*, 121 FERC ¶ 61,260 (2007), *reh'g*, Order No. 697–A, 123 FERC ¶ 61,055 (2008), *reh'g pending* (Order 697).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 3, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19930 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1374–000]

ISO Trader, LLC; Notice of Filing

August 21, 2008.

Take notice that on August 15, 2008, ISO Trader, LLC filed a petition for acceptance of initial tariff, Original Volume No. 1, waivers of certain Commission regulations and blanket authority to sell electricity at market-based rates, pursuant to section 205 of the Federal Power Act (FPA) 16 U.S.C. 824d (2000), Rule 205 and 207 of the Rules of Practice and Procedure, 18 CFR 385.205 (2005) and 18 CFR 385.207 (2005), and Part 35 of the Commission's regulations, 18 CFR part 35 (2005).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 5, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19927 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–458–000]

UGI LNG, Inc.; Notice of Filing

August 21, 2008.

Take notice that on August 8, 2008, UGI LNG, Inc. (UGI LNG) filed an abbreviated application, pursuant to

section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Rules and Regulations, for an amendment of its certificate issued April 19, 2007 in Docket No. CP06–442–000. UGI LNG requests authorization to construct, own, and operate a new liquefied natural gas (LNG) storage tank and appurtenant vaporization and sendout equipment at its existing LNG peak-shaving facility located near the town of Temple in Ontelaunee Township, Berks County, Pennsylvania (the Temple Facility). The application is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The April 19, 2007, certificate authorized UGI LNG to acquire, own, and operate the Temple Facility including a 250,000 Mcf storage tank, a vaporization system designed to deliver up to 55,200 Dth/d, a liquefier designed to deliver 4,000 Dth/d, and approximately 5,000 feet of 8 inch pipeline connecting the Temple Facility to Texas Eastern's system. UGI LNG requests authorization to amend its certificate permitting UGI LNG to expand the Temple Facility by constructing, owning, and operating an additional 1,000 MMcf storage tank and 150,000 Dth/d vaporization and sendout system along with associated boil-off handling equipment. UGI LNG requests continuing authority to charge market-based rates for its firm storage and interruptible services.

Any questions regarding the application are to be directed to Frank H. Markle, Senior Counsel, UGI Corporation, Box 858, Valley Forge, PA 19482, (610) 768–3625 or *marklef@ugicorp.com.*

On October 18, 2007, the Commission staff granted UGI LNG's request to use the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF07–16–000 to staff activities involving the amended Temple Facility project. Now, as of the filing of this application on August 8, 2008, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP08–458–000, as noted in the caption of this Notice.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA(18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons may also wish to comment further only on the environmental review of this project. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents issued by the Commission, and will be notified of meetings associated with the Commission's environmental review process. Those persons, organizations, and agencies who submitted comments during the NEPA Pre-Filing Process in Docket No. PF07–16–000 are already on the Commission staff's environmental mailing list for the proceeding in the above dockets and may file additional comments on or before the below listed comment date. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, environmental commenters are also not parties to the proceeding and will not receive copies of all documents filed by other parties or non-environmental documents issued by the Commission. Further, they will not have the right to seek court review of any final order by Commission in this proceeding.

Motions to intervene, protests and comments 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.

Comment Date: September 11, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19924 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1397–000]

Elkhorn Ridge Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

August 21, 2008.

This is a supplemental notice in the above-referenced proceeding, of Elkhorn Ridge Wind, 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 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 September 11, 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(s) 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19929 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1392–000]

Fowler Ridge III Wind Farm LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

August 21, 2008.

This is a supplemental notice in the above-referenced proceeding, of Fowler Ridge III Wind Farm 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 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 September 11, 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(s) 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19928 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1374–000]

ISO Trader, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

August 21, 2008.

This is a supplemental notice in the above-referenced proceeding, of ISO Trader, 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 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 September 11, 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(s) 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19926 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP08–438–000]

WTG Hugoton, LP; Notice of Technical Conference

August 21, 2008.

Take notice that the Commission will convene a technical conference in the above-referenced proceeding on Tuesday, September 16, 2008, at 10 a.m. (EDT), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's July 31, 2008 Order [1] directed that a technical conference be held to address the issues raised by WTG Hugoton, LP's (WTG) July 1, 2008, tariff filing to reflect annual adjustments to its fuel retention percentages (FRPs). Commission Staff and parties will have the opportunity to discuss all of the issues raised by WTG's filing including, but not limited to, technical, engineering and operational issues, and issues related to the

[1] *WTG Hugoton, LP,* 124 FERC ¶61,119 (2008).

interpretation of tariff provisions governing WTG's FRPs.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Timothy Duggan at (202) 502–8326 or e-mail *Timothy.Duggan@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19923 Filed 8–27–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0274; FRL–8381–2]

FIFRA Scientific Advisory Panel; Notice of Change of Public Meeting Dates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency is issuing this notice to extend a meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel by one half-day. The meeting, originally scheduled for September 16–18, 2008, was announced in the **Federal Register** of July 9, 2008 (73 FR 39292) (FRL–8373–5).

DATES: The meeting will now be held September 16–19, 2008, from approximately 9 a.m. to 5:30 p.m., eastern standard time, with the meeting concluding by noon Friday, September 19, 2008.

ADDRESSES: The meeting will be held at the Holiday Inn—Rosslyn at Key Bridge, 1900 North Fort Myer Dr., Arlington, VA 22209; telephone number: (703) 807–2000.

FOR FURTHER INFORMATION CONTACT: Sharlene R. Matten, Designated Federal Officer (DFO), Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–0130; fax number: (202) 564–8382; e-mail address: *matten.sharlene@epa.gov*.

SUPPLEMENTARY INFORMATION: All other information provided in the July 9, 2008 **Federal Register** public meeting notice remains unchanged.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 25, 2008.

Gary E. Timm,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. E8–20122 Filed 8–26–08; 4:15 pm]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 20, 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 No. 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 October 27, 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: 3060–0288.

Title: Section 78.33, Special Temporary Authority (Cable Television Relay Stations).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 35.

Estimated Time per Response: 4 hours per response.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 140 hours.

Total Annual Costs: $5,250.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality for this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 78.33 permits cable television relay station (CARS) operators to file informal requests for special temporary authority (STA) to install and operate equipment in a manner different than the way normally authorized in the station license. The special temporary authority also may be used by cable operators to conduct field surveys to determine necessary data in connection with a formal application for installation of a radio system, or to conduct equipment, program, service, and path tests.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–19881 Filed 8–27–08; 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

August 21, 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(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. 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: Persons wishing to comment on this information collection should submit comments by October 27, 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: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), (202) 395–5887, or via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission (FCC). To submit your comments by e-mail send them to: *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 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 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, contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0882.

Title: Section 95.833, Construction Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10 respondents; 10 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Other: every 10 year reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection (IC) is contained in sections 4 and 303; 47 U.S.C. 154 and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 10 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements) after this 60-day comment period to Office of Management and Budget (OMB) in order to obtain the full three-year clearance.

The Commission has adjusted the number of respondents and responses due to a significant decrease in the number of respondents for this information collection. Therefore, we are reporting a −1,458 reduction in the number of respondents/responses. Thereby, the total annual burden hours has reduced from 1,468 hours to 10 hours.

Each 218–219 MHz Service licensee must make a showing of ''substantial service'' within ten years of the license grant. A ''substantial service'' assessment will be made at renewal pursuant to the provisions and procedures contained in section 1.949 of the Commission's rules. Each 218–219 MHz Service licensee must file a report to be submitted to inform the Commission of the service status of its system. The report must be labeled as an exhibit to the renewal application. At minimum, the report must include: (1) A description of its current service in terms of geographic coverage and population served; (2) an explanation of its record of expansion, including a timetable of new construction to meet changes in demand for service; (3) a description of its investments in its 218–219 MHz Service systems; (4) a list, including addresses, of all component CTSs constructed; and (5) copies of all FCC orders finding the licensee to have violated the Communications Act or any FCC rule or policy; and a list of any pending proceedings that relate to any matter described in this paragraph.

Failure to demonstrate that substantial service is being provided in the service area will result in forfeiture of the license, and will result in the licensee's ineligibility to apply for 218–219 MHz Service licenses for three years from the date the Commission takes final action affirming that the 218–219 MHz Service licensee has been canceled pursuant to section 95.813 of the Commission's rules.

The information is used by Commission staff to assess compliance with 218–219 MHz Service construction requirements, and to provide adequate spectrum for the service. This will facilitate spectrum efficiency and competition by the 218–219 MHz Service licensees in the wireless marketplace. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–19885 Filed 8–27–08; 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

August 22, 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 Paperwork Reduction Act (PRA) comments should be submitted on or before October 27, 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: 3060–0896.

Title: Broadcast Auction Form Exhibits.

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 or tribal government.

Number of Respondents and Responses: 3,000 respondents; 7,605 responses.

Estimated Hours per Response: 0.5 to 2 hours.

Frequency of Response: On occasion reporting requirement.

Annual Burden: 8,628 hours.

Annual Cost Burden: $10,163,100.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 154(i) and 309 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: On December 18, 2007, the Commission adopted a Report and Order and Third Further Notice of Proposed Rulemaking (''the Diversity Order'') in MB Docket Nos. 07–294; 06–121; 02–277; 04–228, MM Docket Nos. 01–235; 01–317; 00–244; FCC 07–217, which expands opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority and women-owned businesses.

Currently, the media interests held by an individual or company with an equity and/or debt interest in an auction applicant are attributed to that applicant, for purposes of determining its eligibility for the new entrant bidding credit, if the equity and debt interests exceed 33 percent of the total asset value of the applicant. In order to make it easier for small businesses and new entrants to acquire broadcast licenses, and acquire the capital to compete in the marketplace with better financed companies, in the Diversity Order the Commission relaxed the rule standard, so to allow for higher investment opportunities in entities meeting the definition of ''eligible entities.'' An ''eligible entity'' is defined as an entity that would qualify as a small business consistent with the Small Business Administration (''SBA'') standards for its industry grouping, based on revenue.

Pursuant to the Diversity Order, the Commission will now allow the holder of an equity or debt interest in the applicant to exceed the above-noted 33 percent threshold without triggering attribution provided: (1) the combined equity or debt in the ''eligible entity'' is less than 50 percent, or (2) the total debt in the ''eligible entity'' does not exceed 80 percent and the interest holder does not hold any option to acquire an additional interest in the ''eligible entity.''

Consistent with actions taken by the Commission in the Diversity Order, a new question has been added to the new entrant bidding credit section of the broadcast auction application form. It simply requires applicants to make explicit any claim that they are ''eligible entities,'' as a basis for claiming a bidding credit. The question states: ''Does the applicant claim to be an 'eligible entity' as defined in 47 CFR 73.5008(c), for purposes of claiming eligibility for the new entrant bidding credit?'' Additional information showing proof of compliance is not required at the pre-auction application stage. The Commission also foresees a new universe of respondents to the collection—those broadcast auction applicants claiming eligibility for the new entrant bidding credit based on their status as an ''eligible entity.''

The Commission auctions mutually exclusive applications for full power commercial AM and FM radio, television services, Instructional Television Fixed Services (ITFS), and all secondary commercial broadcast services (*e.g.* , Low Power TV (LPTV), FM translators and television translators). The Commission requires the use of the FCC Form 175 (OMB Control Number 3060–0600) to participate in all broadcast auctions. Broadcast applicants are also required to submit certain exhibits which are covered in this information collection as discussed below.

To facilitate the identification of groups of mutually exclusive applicants for non-table services which include the AM radio, LPTV, and TV/FM translator services, the Commission requires applicants to submit the engineering portions of the pertinent long-form application (FCC Form 301 (OMB Control Number 3060–0027), FCC Form 346 (OMB Control Number 3060–0016), or FCC Form 349 (OMB Control Number 3060–0405)) necessary to determine mutual exclusivity. In instances where analog television licensees file major modification applications, the Commission requires that such applicants also file the engineering data. These applicants are required to file the electronic versions of FCC Forms 301, 346 or 349.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–20011 Filed 8–27–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

August 22, 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 September 29, 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: 3060–0061.

Title: Annual Report of Cable Television Systems.

Form Number: FCC Form 325.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit.

Number of Respondents and Responses: 1,200 respondents; 1,200 responses.

Estimated Time per Response: 2.166 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 4(i), 601 and 602 of the Commissions Act of 1934, as amended.

Total Annual Burden: 2,599 hours.

Total Annual Costs: None.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission made revisions/refinements to FCC Form 325 to accommodate systems using technologies other than coaxial cable (Section II,4). Previously, the number of these filers was very small. Now the portion of the sample is becoming significant. These revisions/refinements to Form 325 will allow the form to be filed electronically by these filers, avoiding a significant cost. Refinements are also made to the form to eliminate instances where potential subscribers are double counted (Section II,2). This occurs where a competing system enters the market and reports as such. These refinements impose no significant new requirement and will reduce aggregate filing costs by simplifying filing for overbuilders and permitting electronic filing for the increasing number of competing service providers.

The FCC uses Form 325 ''Annual Report of Cable Television'' to solicit basic operational information from a sample of cable systems nationwide, including: the operator's name and address; system-wide capacity and frequency information; channel usage; and number of subscribers. Operators of every operational cable television system are required to complete the form to verify, correct and/or furnish the Commission with the most current information on their respective cable systems.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–20015 Filed 8–27–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 91–281; DA 08–1924]

Consumer and Governmental Affairs Bureau Seeks Comment on Liberty Public School District Petition for Waiver of 47 CFR 64.1601(b) Regarding the Transmission of Calling Party Number

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks comment on a petition filed by the Liberty Public School District (LPS) for a limited waiver of the Commission's caller identification rules which prohibit terminating carriers from passing calling party number (CPN) to the called party where a privacy indicator has been triggered. LPS asserts that the security and emergency response duties of its security offices have been severely hampered by carriers' refusal to provide CPN, and requests that the Commission allow LPS to receive CPN, even where the calling party has activated a privacy indicator.

DATES: Comments are due on or before September 12, 2008. Reply comments are due on or before September 22, 2008.

ADDRESSES: Interested parties may submit comments and reply comments identified by [CC Docket No. 91–281], by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic comment Filing System (ECFS), through the Commission's Web site: *http://www.fcc.gov/cgb/ecfs/*, or the Federal eRulemaking Portal: *http://www.regulations.gov*.
- For electronic filers through ECFS or the Federal eRulemaking Portal, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number, which in this instance is [CC Docket No. 91–281]. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in response.
- *Paper Filers*: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by

first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Julie Saulnier, Consumer and Governmental Affairs Bureau, Policy Division, at (202) 418–1598 (voice), or e-mail *Julie.Saulnier@fcc.gov*.

SUPPLEMENTARY INFORMATION: On April 22, 2007, the Liberty Public School District (LPS) filed a petition for a limited waiver of § 64.1601(b) of the Commission's rules. *See* Petition of Liberty Public School District for Waiver of Federal Communications Commission Regulations at 47 CFR 64.1601(b) Re: Calling Party Numbers, filed April 22, 2007 (*Waiver Request*). This is a summary of the Commission's Public Notice DA 08–1924. Pursuant to 47 CFR 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on LPS's *Waiver Request* on or before the dates indicated on the first page of this document. The full text of document DA 08–1924 and any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, (202) 418–0270. Document DA 08–1924 and any subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at the contractor's Web site, *http://www.bcpiweb.com*, or by calling (800) 378–3160. Furthermore, document DA 08–1924 any subsequently filed documents in this matter, and a copy of the underlying *Waiver Request* may be found by searching ECFS at *http://www.fcc.gov/cgb/ecfs* (insert [CC Docket No. 91–281] into the Proceeding block).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Document DA 08–1924 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/policy/headlines.html*.

Synopsis

LPS is a public school district serving Liberty, Missouri, a city of approximately 30,000 that is part of Kansas City, Missouri, and parts of unincorporated Clay County, Missouri. LPS employs a staff of 1300 that provides education and services for 9300 students, with facilities and operations spanning a land area of approximately 30 square miles. According to LPS, the school district provides some of its own security and telecommunications services. Over the course of a year, LPS reports receiving between 6 and 10 threatening or harassing phone calls that are considered serious in nature. LPS states that the telecommunications carriers serving LPS are bound by the CPN privacy rules, and parties placing threatening or harassing calls often use the CPN privacy indicator to prevent authorities from identifying them or their location. As a result, LPS security personnel must request a trace of threatening or harassing calls to attempt to identify and locate the caller, a process that can take up to a week. LPS emphasizes that security personnel need to be able to identify and locate callers in a timelier manner to have a chance of apprehending them or preventing them from acting on their threats. According to LPS, its telecommunications assets include a Central Office Switch facility with a call information data log capable of recording all originating and terminating numbers. Currently, telecommunications carriers will not transmit restricted CPNs to LPS, and security and other personnel are therefore prevented from identifying and locating harassing or threatening callers in a timely manner.

LPS states that it will limit access to restricted CPN information by: (1) Operating the switch in a secure facility; (2) allowing telecommunications and security personnel to access restricted CPN data only when investigating threatening or harassing calls and documenting the access as part of the investigative report; (3) allowing transmission of restricted CPN information from LPS to other law enforcement agencies only through secure communications; and (4) destroying CPN data after a reasonable retention period. LPS argues that the waiver would serve the public interest because it would allow LPS to better protect its staff and students by providing rapid responses to threatening or harassing calls. LPS further argues that its situation presents special circumstances that warrant a limited waiver of the rules. First, LPS provides both the security service and end office telecommunications to all locations within its geographical boundaries. Also, the waiver would be applicable only to a narrow and well-defined public institution making it predictable, workable and not subject to discriminatory application.

Federal Communications Commission.

Nicole McGinnis,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E8–19987 Filed 8–27–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 12, 2008.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. O. Gene Bicknell, Englewood, Florida, as an individual and as part of the Bicknell Family Group; Martin C. Bicknell, Bucyrus, Kansas, as an individual and as part of the Bicknell Family Group; and Cherona L. Bicknell, Bucyrus, Kansas, as part of the Bicknell

Family Group; to retain control of Team Financial, Inc., and thereby indirectly retain control of TeamBank, N.A., both in Paola, Kansas.

2. The Schifferdecker Limited Partnership, Girard, Kansas; Mark W. Schifferdecker, Girard, Kansas, in an individual capacity and as managing general partner; Susan B. Friesen, Omaha, Nebraska, Joy L. Shoop, Hiawatha, Kansas, in an individual capacity and as general partners; and John Schifferdecker, Girard, Kansas, to become part of the family group acting in concert and to acquire shares and thereby control of GN Bankshares, Inc., Girard, Kansas, and thereby control The Girard National Bank, Girard, Kansas. In addition, the Neihart Limited Partnership, Kansas City, Missouri; and David Neihart, Prairie Village, Kansas, and Robert Neihart, Overland Park, Kansas, in an individual capacity and as general partners also have applied to become part of the family group acting in concert to control GN Bankshares, Inc., Girard, Kansas.

Board of Governors of the Federal Reserve System, August 25, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–19979 Filed 8–27–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 22, 2008.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Citizens Investors, LLC, Savannah, Georgia, to become a bank holding company by acquiring at least 51 percent of the voting shares of First Citizens Bankshares, Inc., and thereby indirectly acquire voting shares of First Citizens Bank, both of Glennville, Georgia.

B. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. SBA Bancorp, Inc., Ashland, Illinois, to merge with First Beardstown Bancorp, Inc., and thereby indirectly acquire First State Bank of Beardstown, both of Beardstown, Illinois.

C. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. Springfield Bancshares, Inc., Springfield, Missouri, to become a bank holding company by acquiring 100 percent of the voting shares of Springfield First Community Bank, Springfield, Missouri (in organization).

D. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Everest Bancshares, Inc., Everest, Kansas, to acquire 100 percent of the voting shares of Gower Bancshares, Inc., and thereby indirectly acquire voting shares of Bank of Gower, both in Gower, Missouri.

Board of Governors of the Federal Reserve System, August 25, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–19978 Filed 8–27–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 12, 2008.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. NHB Holdings, Inc., and Proficio Mortgage Ventures, LLC, to engage *de novo* in a joint venture with Mainsail Capital and Trinity Venture Partners, all of Jacksonville, Florida, in conducting mortgage banking activities, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, August 25, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–19977 Filed 8–27–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Public Workshop Concerning the Prohibition of Unfair Methods of Competition In Section 5 of the Federal Trade Commission Act

AGENCY: Federal Trade Commission.

ACTION: Notice of Public Workshop

SUMMARY: The Federal Trade Commission will hold a public workshop on October 17, 2008, in Washington, D.C., to explore the scope of the prohibition of ''unfair methods of competition'' in Section 5 of the FTC Act, 15 U.S.C. § 45. In particular, the workshop will consider the appropriate scope of Section 5 in light of legal precedent, economic learning and changing business practices in a global and hi-tech economy. The Commission seeks the views of the legal, academic, and business communities on the issues to be explored at the workshop. This notice poses a series of questions relevant to those issues for which the Commission seeks comment. The agency will consider these comments as it prepares for the workshop. Prior to the workshop, the Commission will publish an agenda on its website.

DATES: The workshop will be held October 17, 2008, in the Conference Center of the FTC office building at 601 New Jersey Avenue, N.W., Washington, D.C. Comments must be received on or before October 24, 2008.

ADDRESSES: Any interested person may submit written comments responsive to any of the topics identified in this **Federal Register** notice or in any subsequent announcement. Respondents are encouraged to provide comments as soon as possible, but no later than October 24, 2008. Comments should refer to ''Section 5 Workshop, P083900'' to facilitate the organization of comments. Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c).[1] Because paper mail in the Washington area, and specifically to the Federal Trade Commission, is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://secure.commentworks.com/ftc-Section5workshop*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on that web-based form. If this notice appears at *http://www.regulations.gov,* you may also file an electronic comment through that Web site. The Commission will consider all comments that *www.regulations.gov* forwards to it. A comment filed in paper form should include the ''Section 5 Workshop, P083900'' reference both on the first page of the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex C), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The Commission requests that any comment filed in paper form be sent by courier or overnight service, if possible, because, as noted above, postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

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

FOR FURTHER INFORMATION CONTACT: Neil Averitt, Office of Policy and Coordination, Bureau of Competition, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580; telephone 202-326-2885; e-mail, *Section5Workshop@ftc.gov.* A detailed agenda and schedule for the workshop will be available on the FTC website (*http://www.ftc.gov),* and can be located through the website's search function.

SUPPLEMENTARY INFORMATION: When Congress created the FTC in 1914, it empowered the agency to prevent ''unfair methods of competition'' through Section 5 of the FTC Act, 15 U.S.C. § 45. Under Section 5, the Commission may condemn conduct that violates the Sherman Act, 15 U.S.C. § 1-7.[2] But based on its review of the FTC Act's legislative history, the Supreme Court has stated that Section 5 also reaches beyond violations of the Sherman Act to broader categories of conduct.[3]

The precise reach of Section 5 and its relationship to other antitrust statutes has long been a matter of debate. The Supreme Court has observed that the ''standard of 'unfairness' under the FTC Act is, by necessity, an elusive one, encompassing not only practices that violate the Sherman Act and the other antitrust laws but also practices that the Commission determines are against public policy for other reasons.''[4] In the early 1980s, however, lower courts were critical of efforts by the FTC to enforce a reading of Section 5 that captured conduct falling outside the Sherman Act. In striking down the FTC's orders, those courts expressed a concern that the Commission's theory of liability failed ''to discriminate between normally acceptable business behavior and conduct that is unreasonable or unacceptable.''[5]

The great majority of FTC non-merger cases enforce the Sherman Act. Beginning in the early 1990s, however, the Commission reached a number of consent agreements in matters involving invitations to collude;[6] practices that

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

[2] *See, e.g.*, FTC v. Motion Picture Advertising Service Co., 344 U.S. 392, 395 (1953).

[3] *See, e.g.*, FTC v. Sperry & Hutchinson Co., 405 U.S. 233, 239, 244 (1972) (''section 5 empower[s] the Commission to define and proscribe an unfair competitive practice, even though the practice does not infringe either the letter or the spirit of the antitrust laws.''); FTC v. Motion Picture Advertising Service Co., 344 U.S. 392, 395 (1953) (''The 'unfair methods of competition,' which are condemned by § 5(a) of the Act, are not confined to those that were illegal at common law or that were condemned by the Sherman Act'').

[4] FTC v. Indiana Fed'n of Dentists, 476 U.S. 447, 454 (1986) (dicta) (upholding a violation of Sherman Act Section 1).

[5] E.I duPont de Nemours & Co. v. FTC (''Ethyl''), 729 F.2d 128, 138 (2nd Cir. 1984); *see also*, Boise Cascade Corp. v. FTC, 637 F.2d 573 (9th Cir. 1980) (FTC theory ''blur[red] the distinction between guilty and innocent commercial behavior''); Official Airline Guides v. FTC, 630 F.2d 920, 927 (2nd Cir. 1980) (''enforcement of the FTC's order here would give the FTC too much power to substitute its own business judgment for that of the monopolist in any decision that arguably affects competition in another industry'').

[6] *See, e.g.*,Valassis Communications, Docket No. C-4160 (April 28, 2006); FMC Corp., 133 F.T.C. 815 (2002); Stone Container Corp., 125 F.T.C. 853 (1998); Precision Moulding Co., 122 F.T.C. 104

facilitate collusion or collusion-like results in the absence of an agreement;[7] and misconduct relating to standard setting.[8] Because the complaints in these matters did not allege all the elements of a Sherman Act violation, the Commission's theory of liability rested on a broader reach of Section 5. As consents, none of these matters have been reviewed by a court.

The workshop will examine three topics: (1) the history of Section 5, including Congress's enactment, the FTC's enforcement, and the courts' response; (2) the range of possible interpretations of Section 5; and (3) examples of business conduct that may be unfair methods of competition addressable by Section 5. The Commission particularly seeks the input of the business community in preparing this last topic.

The Commission invites public comment on questions relevant to these topics, including:

1. What principles concerning the scope of Section 5 can be garnered from Supreme Court and appellate court decisions?

2. What legal, economic, and policy concerns are important when interpreting Section 5's prohibition against ''unfair methods of competition?'' What is the role of Section 5 in protecting nonprice competition?

3. Is Section 5 coterminous with the Sherman Act? How has the courts' development of the Sherman Act over time altered its relationship to Section 5? Does the Sherman Act encompass all conduct that is truly harmful to competition?

4. Does Section 5 authorize the FTC to fill technical gaps in the coverage of the other antitrust statutes?

5. Can Section 5 reach externally-defined business torts where they threaten to bring about a future lessening of competition?

6. Should Section 5 be interpreted to reach practices that pose at least a moderate threat to competition and few offsetting benefits to consumers, (*e.g.*, reduced costs, improved products, or other efficiencies), where enforcement is limited to the FTC and relief is limited to an injunction prohibiting or undoing the challenged conduct?[9]

7. Does the FTC's use of Section 5, independent of the Sherman Act, make it less likely that treble damages could be assessed in follow-on actions? If so, should that fact influence the interpretation of Section 5's scope, or its application?

8. What limiting principles should be applied to the definition of ''unfair methods of competition?'' How can ''unfair methods of competition'' under Section 5 be defined to avoid capturing benign or procompetitive conduct while allowing for sufficient guidance and predictability for business?

9. If Section 5 captures conduct falling outside the Sherman Act, what economic evidence and analysis would be useful in identifying violations? What economic evidence and analysis would be useful in identifying the proper limiting principles for the enforcement of Section 5?

10. Was the Commission's use during the last two decades of Section 5 claims in settled complaints that did not allege all the elements of a Sherman Act violation beneficial and principled or harmful and unbounded? How might courts have evaluated these claims?

11. What are examples of business conduct that may be unfair methods of competition addressable by Section 5? How does that conduct harm competition and consumers?

By direction of the Commission.

Richard C. Donohue,

Acting Secretary.

[FR Doc. E8–20008 Filed 8–27–08: 8:45 am]

BILLING CODE 6750–01–S

(1997); YKK (U.S.A.) Inc.,116 F.T.C. 628 (1993); AE Clevite, Inc., 116 F.T.C. 389 (1993); Quality Trailer Products,115 F.T.C. 944 (1992); FTC v. Mead Johnson & Co., Civ. No. 92-1366 (D.D.C. June 11, 1992), *press release available at* (*http://www.ftc.gov/opa/predawn/F93/mead-ahp24.htm.*)

[7] This category is illustrated by the cases involving minimum advertised prices for CDs. *See* BMG Music, Docket No. C-3973 (Aug. 30, 2000); Capital Records, Docket No. C-3975 (Aug. 30, 2000); Sony Music Entertainment, Docket No. C-3971 (Aug. 30, 2000); Time-Warner, Inc., Docket No. C-3972 (Aug. 30, 2000); Universal Music and Video Distribution, Docket No. C- 3974 (Aug. 30, 2000). *See also* FTC v. Mead Johnson & Co., *supra.*

[8] Dell Computer Corp., 121 F.T.C. 616 (1996) (misrepresentation of patent rights to a standard-setting body); Negotiated Data Solutions (''N-Data''), File No. 051-0094 (press release Jan. 23, 2008) (provisionally accepting consent subject to public comments) (reneging on prior commitment made to a standard setting body).

[9] II P. Areeda & H. Hovenkamp, Antitrust Law ¶ 302h (2nd ed. 2000 Supp. 2007) (proposing this interpretation of Section 5).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Y–12 Plant in Oak Ridge, Tennessee, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On August 15, 2008, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy (DOE), its predecessor agencies, and DOE contractors or subcontractors who worked at the Y–12 Plant in Oak Ridge, Tennessee from March 1, 1943 through December 31, 1947 for a number of work days aggregating at least 250 work days occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on September 14, 2008, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: August 22, 2008.

Christine M. Branche,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–19966 Filed 8–27–08; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Spencer Chemical

Company/Jayhawk Works near Pittsburg, Kansas, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On August 15, 2008, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All Atomic Weapons Employer (AWE) employees who worked at Spencer Chemical Company/Jayhawk Works near Pittsburg, Kansas, from January 1, 1956 through December 31, 1961 for a number of work days aggregating at least 250 work days occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on September 14, 2008, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: August 22, 2008.

Christine M. Branche,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–19967 Filed 8–27–08; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–08–08AL]

Proposed Data Collections Submitted for Public Comment and Recommendations

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

The Natural History of Spina Bifida in Children Pilot Project-New-National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Spina Bifida (SB) is one of the most common birth defects, affecting approximately 2 per 10,000 live births in the United States annually. To date, there are no U.S. population-based cohort studies or programs on the natural history of SB. This is of importance because persons with SB often experience condition-specific difficulties and secondary conditions that detrimentally affect several aspects of their lives. The long-term purpose of this project is to increase the knowledge about the natural history of Spina Bifida by prospectively studying children who were born with this potentially disabling condition. We estimate to enroll approximately 40 parents with a child with Spina Bifida ages 3-, 4-, or 5-years of age, and 20 of the children of these forty parents. The data to be collected will relate to medical concerns prevalent among individuals with Spina Bifida in the areas of neurology/neurosurgery, urology, and orthopedics; development and learning; nutrition and physical growth; mobility and functioning; general health; and family demographics. Families interested in participating can choose between participating in a phone survey (no more than 45 minutes) or an in-person assessment (no more than 3 hrs). For families who participate in the in-person assessment (estimated to be twenty of the forty families), the child will also be invited to participate in a child-appropriate assessment.

Data will also be collected on the actual recruitment process. Results from the project will be evaluated and disseminated to provide guidance for states that are interested in following children with Spina Bifida prospectively. The proposed project is the initial step to document the development, the health status, and the onset of complications among children with SB in order that effective interventions may be identified that will ameliorate the course of this complex, multi-system condition. Long-term results will help determine if it would be beneficial to systematically screen children with Spina Bifida for certain health-related educational and developmental problems that these children are at an increased risk of experiencing and at what age such a screening should be performed.

There will be no cost to the respondents other than their time. The total estimated annualized burden hours are 97.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Parents (phone survey)	20	1	45/60
Parents (in-person assessment)	20	1	2.5
Child (in-person assessment)	20	1	1.5
SB Clinic Coordinator (recruitment effort)	1	1	2

Dated: August 22, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–19968 Filed 8–27–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Consolidated Vaccine Information Materials for Multiple Infant Vaccines; Revised Instructions for Use of Vaccine Information Statements

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA) (42 U.S.C. § 300aa–26), the CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. CDC seeks written comment on a proposed new vaccine information statement that consolidates the six vaccine information statements for the following childhood vaccines: DTaP, *Haemophilus influenzae* type b, inactivated polio vaccine, pneumococcal conjugate vaccine, hepatitis B, and rotavirus. This consolidated Vaccine Information Statement would be available to be used by vaccination providers as an alternative to providing the six individual Vaccine Information Statements for the same vaccines. On October 4, 2007, CDC published a notice in the **Federal Register** (72 FR 56765) seeking public comments on the proposed consolidated vaccine information materials. The 60 day comment period ended on December 3, 2007. Following review of the comments submitted and consultation as required under the law, CDC has finalized these vaccine information materials. The final materials, and revised instructions for their use and for use of materials for other covered vaccines, are contained in this notice.

DATES: Beginning August 28, 2008, each health care provider who administers vaccine that contains diphtheria, tetanus, pertussis, hepatitis B, pneumococcal conjugate, inactivated polio, *Haemophilus influenzae* type b, or rotavirus vaccines may, prior to administration of each dose of these vaccines, provide a copy of the vaccine information materials contained in this notice, dated January 30, 2008, to the parent or legal representative of any child to whom such provider intends to administer the vaccines, in lieu of providing vaccine information materials for each individual vaccine.

FOR FURTHER INFORMATION CONTACT: Anne Schuchat, M.D., Director, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop E–05, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–8200.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program.

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Committee on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) a concise description of the risks associated with the vaccine,

(3) a statement of the availability of the National Vaccine Injury Compensation Program, and

(4) such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, hepatitis A, meningococcal conjugate and polysaccharide, rotavirus, human papillomavirus (HPV), and trivalent influenza vaccines have subsequently been added to the National Vaccine Injury Compensation Program. Use of the Vaccine Information Statements applicable to all of these vaccines, [except meningococcal, rotavirus and HPV,] is also required. [(Interim versions of Vaccine Information Statements for meningococcal, rotavirus and HPV vaccines are available for discretionary use pending completion of the statutory process for finalizing VISs applicable to those vaccines.)] Instructions for use of the vaccine information materials and copies of the materials can be found on the CDC Web site at: *http://www.cdc.gov/vaccines/pubs/vis*. In addition, single camera-ready copies are available from State health departments. A list of State health department contacts for obtaining copies of these materials is included in a December 17, 1999 **Federal Register** notice (64 FR 70914).

Consolidated Vaccine Information Materials

With six vaccines recommended for infants from birth through 6 months of age—all covered by the National Vaccine Injury Compensation Program—CDC, as required under 42 U.S.C. 300aa–26, developed Vaccine Information Statements for each of those vaccines. CDC proposed an alternative consolidated Vaccine Information Statement covering those six vaccines in one document, which providers could choose to use instead of the existing individual Vaccine Information Statements for the same vaccines.

Following consultation as required under the law and review of comments submitted, these vaccine information materials have been finalized and are contained in this notice. They are entitled Your Baby's First Vaccines: What You Need to Know, and are dated January 30, 2008. CDC has also revised the Instructions for the Use of Vaccine Information Statements. The revised instructions, dated May 12, 2008, are included in this notice. These instructions and copies of the materials for all covered vaccines can also be found on the CDC Web site at: *http://www.cdc.gov/vaccines/pubs/VIS*.

* * * * *

Instructions for the Use of Vaccine Information Statements

Required Use

1. Provide Vaccine Information Statement (VIS) when vaccination is given.As required under the National Childhood Vaccine Injury Act (42 U.S.C. § 300aa-26), all health care providers in the United States who administer, to any child or adult, any vaccine containing diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, hepatitis A, hepatitis B, *Haemophilus influenzae* type b (Hib), trivalent influenza, pneumococcal conjugate, or varicella (chickenpox) vaccine shall, prior to administration of each dose of the vaccine, provide a copy to keep of the relevant current edition vaccine information materials that have been produced by the Centers for Disease Control and Prevention (CDC):

—to the parent or legal representative* of any child to whom the provider intends to administer such vaccine, and

(* ''Legal representative'' is defined as a parent or other individual who is qualified under State law to consent to the immunization of a minor or incompetent adult)

—to any adult to whom the provider intends to administer such vaccine. (In the case of an incompetent adult, relevant VISs shall be provided to the individual's legal representative.* If the incompetent adult is living in a long-term care facility, all relevant VISs may be provided at the time of admission, or at the time of consent if later than admission, rather than prior to each immunization.)

If there is not a single VIS for a combination vaccine, use the VISs for all component vaccines.

The materials shall be supplemented with visual presentations or oral explanations, as appropriate.

2. Record information for each VIS provided.

Health care providers shall make a notation in each patient's permanent medical record at the time vaccine information materials are provided indicating:

(1) The edition date of the Vaccine Information Statement distributed, and

(2) the date the VIS was provided.

This recordkeeping requirement supplements the requirement of 42 U.S.C. 300aa–25 that all health care providers administering these vaccines must record in the patient's permanent medical record (or in a permanent office log):

(3) the name, address and title of the individual who administers the vaccine,

(4) the date of administration, and

(5) the vaccine manufacturer and lot number of the vaccine used.

Applicability of State Law

Health care providers should consult their legal counsel to determine additional State requirements pertaining to immunization. The Federal requirement to provide the vaccine information materials supplements any applicable State laws.

Availability of Copies

Single camera-ready copies of the vaccine information materials are available from State health departments. Copies are also available on the Centers for Disease Control and Prevention'sWeb site at *http://www.cdc.gov/vaccines/pubs/vis.* Copies are available in English and in other languages.

Current VIS Editions

Diphtheria, Tetanus, Pertussis (DTaP or DT): 5/17/07.
Haemophilus influenzae type b: 12/16/98.
Hepatitis A: 3/21/06.
Hepatitis B: 7/18/07.
Human Papillomavirus (HPV): 2/2/07**.
Inactivated Influenza: 7/24/08.
Live, Intranasal Influenza: 10/4/07.
Measles, Mumps, Rubella (MMR): 3/13/08.
Meningococcal: 1/28/08**.
Pneumococcal conjugate: 9/30/02.
Polio: 1/1/00.
Rotavirus: 4/12/06**.
Tetanus Diphtheria (Td): 6/10/94.
Tetanus, Diphtheria, Pertussis (Tdap): 7/12/06.
Varicella (chickenpox): 3/13/08.
Multi-Vaccine: 1/30/08***.

** Available interim VIS pending completion of statutory process.

*** This VIS is an optional alternative when two or more routine childhood vaccines (i.e., DTaP, hepatitis B, Hib, pneumococcal, polio, or rotavirus) are administered at the same visit.

Reference 42 U.S.C. 300aa–26.
5/12/08.

* * * * *

Multi-vaccine Vaccine Information Statement:

YOUR BABY'S FIRST VACCINES: WHAT YOU NEED TO KNOW

Babies get six vaccines between birth and 6 months of age.

These vaccines protect your baby from 8 serious diseases (see the next page).

Your baby will get vaccines today that prevent these diseases:

○ Hepatitis B
○ Polio
○ Pneumococcal Disease
○ Diphtheria, Tetanus & Pertussis
○ Rotavirus
○ Hib

(Provider: Check appropriate boxes)

These vaccines may be given separately, or some might be given together in the same shot (for example, Hepatitis B and Hib can be given together, and so can DTaP, Polio and Hepatitis B). These ''combination vaccines'' are as safe and effective as the individual vaccines, and mean fewer shots for your baby.

These vaccines may all be given at the same visit. Getting several shots at the same time will not harm your baby.

This ''Vaccine Information Statement'' (VIS) tells you about the benefits and risks of these vaccines. It also contains information about reporting an adverse reaction, the National Vaccine Injury Compensation Program, and how to get more information about childhood diseases and vaccines.

Please read this VIS before your child gets his or her immunizations, and take it home with you afterward. Ask your doctor, nurse, or other healthcare provider if you have questions.

Individual Vaccine Information Statements are also available for these vaccines. Many Vaccine Information Statements are available in Spanish and other languages. See *http://www.immunize.org/vis*.

Department of Health and Human Services

Centers for Disease Control and Prevention

Vaccine Information Statement, 42 U.S.C. 300aa–26, 1/30/2008.

Vaccine Benefits: Why Get Vaccinated?

Your children's first vaccines protect them from 8 serious diseases, caused by viruses and bacteria. These diseases have injured and killed many children (and adults) over the years. Polio paralyzed about 37,000 people and killed about 1,700 each year in the 1950s before there was a vaccine. In the 1980s, Hib disease was the leading cause of bacterial meningitis in children under 5 years of age. About 15,000 people a year died from diphtheria before there was a vaccine. Most children have had at least one rotavirus infection by their 5th birthday.None of these diseases has completely disappeared. Without vaccination, they will come back. This has happened in other parts of the world.

8 Diseases Prevented by Childhood Vaccines

Diphtheria: Bacteria

You can get it from contact with an infected person.

Signs and symptoms include a thick covering in the back of the throat that can make it hard to breathe.

It can lead to breathing problems, heart failure, and death.

Tetanus (Lockjaw): Bacteria

You can get it from a cut or wound. It does not spread from person to person.

Signs and symptoms include painful tightening of the muscles, usually all over the body.

It can lead to stiffness of the jaw, so the victim can't open his mouth or swallow. It leads to death in about 1 case out of 5.

Pertussis (Whooping Cough): Bacteria

You can get it from contact with an infected person.

Signs and symptoms include violent coughing spells that can make it hard for an infant to eat, drink, or breathe. These spells can last for weeks.

It can lead to pneumonia, seizures (jerking and staring spells), brain damage, and death.

Hib (*Haemophilus influenzae* Type b): Bacteria

You can get it from contact with an infected person.

Signs and symptoms. There may be no signs or symptoms in mild cases.

It can lead to meningitis (infection of the brain and spinal cord coverings); pneumonia; infections of the blood, joints, bones, and covering of the heart; brain damage; deafness; and death.

Hepatitis B: Virus

You can get it from contact with blood or body fluids of an infected person. Babies can get it at birth if the mother is infected, or through a cut or wound. Adults can get it from unprotected sex, sharing needles, or other exposures to blood.

Signs and symptoms include tiredness, diarrhea and vomiting, jaundice (yellow skin or eyes), and pain in muscles, joints and stomach.

It can lead to liver damage, liver cancer, and death.

Polio Virus

You can get it from close contact with an infected person. It enters the body through the mouth.Signs and symptoms can include a cold-like illness, or there may be no signs or symptoms at all.It can lead to paralysis (can't move arm or leg), or death (by paralyzing breathing muscles).

Pneumococcal: Bacteria

You can get it from contact with an infected person.

Signs and symptoms include fever, chills, cough, and chest pain.

It can lead to meningitis (infection of the brain and spinal cord coverings), blood infections; ear infections, pneumonia, deafness, brain damage, and death.

Rotavirus: Virus

You can get it from contact with other children who are infected.

Signs and symptoms include severe diarrhea, vomiting and fever.

It can lead to dehydration, hospitalization (up to about 70,000 a year), and death.

How Vaccines Work

Immunity from Disease: When a child gets sick with one of these diseases, her immune system produces immunity, which keeps her from getting the same disease again. But getting sick is unpleasant, and can be dangerous.

Immunity from Vaccines: Vaccines are made with the same bacteria or viruses that cause a disease, but they have been weakened or killed to make them safe. A child's immune system responds to a vaccine the same way it would if the child had the disease. This means he will develop immunity without having to get sick first.

Routine Childhood Vaccines

Six vaccines are recommended for children between birth and 6 months of age. They can prevent the 8 diseases described on the previous page. Children will also get at least one ''booster'' dose of most of these vaccines when they are older.

- DTaP (Diphtheria, Tetanus & Pertussis) Vaccine: 5 doses—2 months, 4 months, 6 months, 15–18 months, 4–6 years. Some children should not get pertussis vaccine. These children can get a vaccine called DT, which does not contain pertussis.
- Hepatitis B Vaccine: 3 doses—Birth, 1–2 months, 6–18 months.
- Polio Vaccine: 4 doses—2 months, 4 months, 6–18 months, 4–6 years.
- Hib (*Haemophilus influenzae* type b) Vaccine: 4 doses—2 months, 4 months, 6 months, 12–15 months. Several Hib vaccines are available. With one type, the 6-month dose is not needed.
- Pneumococcal Vaccine: 4 doses—2 months, 4 months, 6 months, 12–15 months. Older children with certain diseases may also need this vaccine.
- Rotavirus Vaccine: 3 doses—2 months, 4 months, 6 months. Rotavirus is an oral (swallowed) vaccine, not a shot.

Vaccine Risks

Vaccines can cause side effects, like any other medicine. Mostly these are mild ''local reactions'' such as tenderness, redness or swelling where the shot is given, or a mild fever. They happen in up to 1 child out of 4 for most childhood vaccines. They appear soon after the shot is given and go away within a day or two.

More severe reactions can also occur, but this happens much less often. Some of these reactions are so uncommon that experts can't tell whether they are caused by vaccines or not. Among the most serious reactions to vaccines are severe allergic reactions to a substance in a vaccine. These reactions happen very rarely—less than once in a million shots. They usually happen very soon after the shot is given. Doctor's office or clinic staff are trained to deal with them.

The risk of any vaccine causing serious harm, or death, is extremely small. Getting a disease is much more likely to harm a child than getting a vaccine.

Other Reactions

The following conditions have been associated with routine childhood vaccines. By ''associated'' we mean that they appear more often in children who have been recently vaccinated than in those who have not. An association doesn't ''prove'' that a vaccine caused a reaction, but it does mean it is probable.

DTaP Vaccine

Mild Problems: Fussiness (up to 1 child in 3); tiredness or poor appetite (up to 1 child in 10); vomiting (up to 1 child in 50); swelling of the entire arm or leg for 1–7 days (up to 1 child in 30)—usually after the 4th or 5th dose.

Moderate Problems: Seizure (jerking or staring) (1 child in 14,000); non-stop crying for 3 hours or more (up to 1 child in 1,000); fever over 105°F (1 child in 16,000).

Serious Problems: Long-term seizures, coma, lowered consciousness, and permanent brain damage have been reported very rarely after DTaP vaccine. They are so rare we can't be sure they are caused by the vaccine.

Polio Vaccine/Hepatitis B Vaccine/Hib Vaccine

These vaccines have not been associated with mild problems other than local reactions, or with moderate or serious problems.

Pneumococcal Vaccine

Mild Problems: During studies of the vaccine, some children became fussy or drowsy or lost their appetite.

Rotavirus Vaccine

Mild Problems: Children who get rotavirus vaccine are slightly more likely than other children to have mild, temporary diarrhea or vomiting. This happens within the first week after getting a dose of vaccine. No moderate or serious problems have been associated with the vaccine.

Precautions

If your child is sick on the date vaccinations are scheduled, your provider may want to put them off until she recovers. A child with a mild cold or a low fever can usually be vaccinated that day. But for a more serious illnesses, it may be better to wait.

Some children should not get certain vaccines. Talk with your provider if your child had a serious reaction after a previous dose of a vaccine, or has any life-threatening allergies. (These reactions and allergies are rare.)

If your child had any of these reactions to a previous dose of DTaP:

—A brain or nervous system disease within 7 days
—Non-stop crying for 3 or more hours
—A seizure or collapse
—A fever over 105°F

Talk to your provider before getting DTaP Vaccine.

If your child has:

—A life-threatening allergy to the antibiotics neomycin, streptomycin, or polymyxin B.

Talk to your provider before getting Polio Vaccine.

If your child has:

—A life-threatening allergy to yeast

Talk to your provider before getting Hepatitis B Vaccine.

If your child has:

—A weakened immune system
—Ongoing digestive problems
—Recently gotten a blood transfusion or other blood product
—Ever had intussusception (an uncommon type of intestinal obstruction)

Talk to your provider before getting Rotavirus Vaccine.

What if my child has a moderate or severe reaction?

What should I look for?

Look for any unusual condition, such as a serious allergic reaction, high fever, weakness, or unusual behavior.

Serious allergic reactions are extremely rare with any vaccine. If one were to happen, it would most likely come within a few minutes to a few hours after the shot.

Signs of a serious allergic reaction can include:

—difficulty breathing
—weakness
—hives
—hoarseness or wheezing
—dizziness
—paleness
—swelling of the throat
—fast heart beat

What should I do?

Call a doctor, or get the child to a doctor right away.

Tell your doctor what happened, the date and time it happened, and when the shot was given.

Ask your healthcare provider to report the reaction by filing a Vaccine Adverse Event Reporting System (VAERS) form. Or you can file this report through the VAERS Web site at *http://www.vaers.hhs.gov*, or by calling 1–800–822–7967.

VAERS does not provide medical advice.

The National Vaccine Injury Compensation Program

A federal program exists to help pay for the care of anyone who has a serious reaction to a vaccine.

For information about the National Vaccine Injury Compensation Program, call 1–800–338–2382 or visit their Web site at *http://www.hrsa.gov/vaccinecompensation*.

For More Information

Ask your healthcare provider. They can give you the vaccine package insert or suggest other sources of information.

Call your local or state health department.

Contact the Centers for Disease Control and Prevention (CDC) at 1–800–232–4636 (1–800–CDC–INFO) .

Visit CDC Web sites at: *http://www.cdc.gov/vaccines* and *http://www.cdc.gov/ncidod/diseases/hepatitis*.

Dated: August 20, 2008.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. E8–19965 Filed 8–27–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Health Statistics

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), National Center for Health Statistics (NCHS) announces the following meeting of the aforementioned committee.

Times and Dates: 11 a.m.–5:30 p.m., September 18, 2008. 8:30 a.m.–2 p.m., September 19, 2008.

Place: NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

Matters To Be Discussed: The agenda will include welcome remarks by the Director, NCHS; introduction of members and key NCHS staff; scientific presentations and discussions; the review of the National Health Interview Survey; presentation of the long term care program in the initial stage of review; and an open session for comments from the public.

Requests to make oral presentations should be submitted in writing to the contact person listed below. All requests must contain the name, address, telephone number, and organizational affiliation of the presenter.

Written comments should not exceed five single-spaced typed pages in length and must be received by September 12, 2008.

The agenda items are subject to change as priorities dictate.

Contact Person for More Information: Virginia S. Cain, Ph.D., Director of Extramural Research, NCHS/CDC, 3311 Toledo Road, Room 7211, Hyattsville, Maryland 20782, telephone (301) 458–4500, fax (301) 458–4020.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: August 22, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–19947 Filed 8–27–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Centers for Birth Defects Research and Prevention, Funding Opportunity Announcement (FOA) DD09–001

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Time and Date: 9 a.m.–2 p.m., October 7, 2008 (Closed).

Place: Centers for Disease Control and Prevention, Global Communications Center, 1600 Clifton Road, NE., Atlanta, GA 30333, 404–639–3138.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to ''Centers for Birth Defects Research and Prevention, FOA DD09–001.''

Contact Person for More Information: Susan Stanton, D.D.S., Scientific Review Officer, Office of the Chief Science Officer, CDC, 1600 Clifton Road, NE., Mailstop D74, Atlanta, GA 30333, Telephone 404–639–4640.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: August 22, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–19946 Filed 8–27–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0449]

Draft Guidance for Industry on Integrated Summary of Effectiveness; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Integrated Summary of Effectiveness.'' This draft guidance describes how an integrated summary of effectiveness (ISE) should be prepared by industry for new drug applications (NDAs) and biologics license applications (BLAs). This guidance, when final, will supersede section G, Integrated Summary of Effectiveness Data, of the 1988 guidance on ''Format and Content of the Clinical and Statistical Sections of an Application'' (Clin-Stat guidance). This guidance also incorporates the conceptual framework of section 2.7.3, Summary of Clinical Efficacy, from the International Conference on Harmonisation (ICH) guidance for industry ''M4E The CTD —Efficacy.'' This guidance is intended to improve the quality of product applications by describing what efficacy information should be submitted so that FDA can make a regulatory decision on an application.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by October 27, 2008.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained from the Center for Biologics Evaluation and Research by mail by calling 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document. Send one self-addressed adhesive label to assist that office in processing your requests.

Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT:

Howard Chazin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6470, Silver Spring, MD 20993–0002, 301–796–0700; or

Leonard Wilson, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, suite 576N, Rockville, MD 20852, 301–827–1053.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Integrated Summary of Effectiveness.'' This draft guidance describes how an ISE should be prepared by industry for NDAs and BLAs. The ISE has been required as part of an NDA submission (21 CFR 314.50(d)(5)(v)) since 1985, but the regulation does not describe the specific components of the ISE. The Clin-Stat guidance provides a description of what FDA recommends be included in an ISE. However, since the Clin-Stat guidance was published, several International Conference on Harmonisation guidances, including the ICH guidances for industry ''E3 Structure and Content of Clinical Study Reports,'' ''E10 Choice of Control Group and Related Issues in Clinical Trials,'' and ''M4E The CTD—Efficacy,'' have provided further recommendations for describing individual trials and providing results of efficacy analyses. This guidance, when final, will supersede section G of the Clin-Stat guidance to reflect FDA's current thinking regarding the format and content of the ISE to provide a truly integrated analysis, rather than a summary of efficacy results from individual clinical trials, and to satisfy FDA regulatory requirements. Although there are no corresponding regulations requiring an ISE for BLA submissions, applicants are encouraged to provide these analyses.

Regarding the common technical document, the ISE is often confused with the document included in Module 2, section 2.7.3, Summary of Clinical Efficacy. Although one of the goals of the ISE is to summarize the available effectiveness data, the ISE primarily is intended to be an integrated analysis of these data, going beyond a simple summary. The focus of the ISE is not on the detailed results of the individual studies, which are described in individual study reports, but a comprehensive, detailed, in-depth analysis that goes beyond individual study results to examine the basis for the entire approach taken.

This draft guidance is being issued consistent with FDA's good guidance

practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the content and format of the ISE. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 314 have been approved under 0910–0001. The collections of information for submission of data in a BLA under 21 CFR 601.2 have been approved under 0910–0338.

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. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/cber/guidelines.htm* or *http://www.regulations.gov*.

Dated: August 19, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–19906 Filed 8–27–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2008–M–0084, FDA–2008–M–0100 (formerly 2008M–0013), FDA–2008–M–0182, FDA–2008–M–0109, FDA–2008–M–0207]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the agency's Division of Dockets Management.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness data to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in Table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Samie Allen, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–4013.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule that revised 21 CFR 814.44(d) and 814.45(d) to discontinue individual publication of PMA approvals and denials in the **Federal Register**. Instead, the agency now posts this information on the Internet on FDA's home page at *http://www.fda.gov*. FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from January 1, 2008, through March 31, 2008. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM JANUARY 1, 2008, THROUGH MARCH 31, 2008

PMA No. Docket No.	Applicant	TRADE NAME	Approval Date
P040021 (S004) FDA–2008–M–0084	St. Jude Medical, Inc.	SJM EPIC VALVE AND SJM SUPRA VALVE	November 15, 2007

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM JANUARY 1, 2008, THROUGH MARCH 31, 2008—Continued

PMA No. Docket No.	Applicant	TRADE NAME	Approval Date
P070001 FDA–2008–M–0100 (formerly 2008M–0013)	Synthes Spine, Inc.	PRODISC–C TOTAL DISC PEPLACEMENT	December 17, 2007
P050045 FDA–2008–M–0182	Dako Denmark a/s	DAKO TOP2A FISH PHARM DX KIT	January 11, 2008
P060033 FDA–2008–M–0109	Medtronic Vascular	ENDEAVOR ZOTAROLIMUS-ELUTING CORONARY STENT ON THE OVER THE WIRE (OTW), RAPID EXCHANGE (RX), OR MULTI-EXHANGE II (MX^2) STENT DELIVERY SYSTEM	February 1, 2008

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/cdrh/pmapage.html*.

Dated: August 14, 2008.

Daniel G. Schultz,

Director, Center for Devices and Radiological Health.

[FR Doc. E8–19907 Filed 8–27–08; 8:45 am]

BILLING CODE 4160–01–S

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.

Identification and Characterization of Folliculin-Interacting Protein 2, FNIP2

Description of Technology: The invention describes the identification and characterization of a FNIP1 homolog, folliculin-interacting protein 2 (FNIP2), that interacts with folliculin, the protein encoded by the FLCN gene, which is responsible for the Birt-Hogg-Dube' (BHD) syndrome. BHD is a dermatologic disorder associated with an increased risk for developing renal cancer, spontaneous pneumothorax and lung cysts. FNIP2 binds to the C-terminus of folliculin and to AMPK. Importantly, FNIP2 expression was elevated in renal tumors seen in BDH patients. This finding suggests that FNIP2 may serve as a biomarker for BHD.

Applications: Research tool; Diagnostic applications.

Advantages: Could facilitate the development of therapeutic drugs to treat the skin lesions and renal tumors that develop in BHD patients.

Development Status: Early stage of development.

Market: Dermatologic products; Diagnostic applications.

Inventors: Laura S. Schmidt *et al.* (NCI).

Relevant Publication: H Hasumi *et al.* Identification and characterization of a novel folliculin-interacting protein FNIP2. (2008) Gene, in press.

Patent Status: HHS Reference No. E–213–2008/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Status: Available for biological materials licensing only.

Licensing Contact: John Stansberry, Ph.D.; 301–435–5236; *stansbej@mail.nih.gov.*

Collaborative Research Opportunity: The Urologic Oncology Branch at the National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize detection methods specific for FNIP2 to be used to screen FNIP2 as a biomarker for renal cancer. This may include development of an efficient FNIP2 antibody which does not cross react with FNIP1 for immunhistochemical screening of renal tumors for FNIP2 expression. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Immunotoxins Made With Modified Cholix Toxin and Uses Thereof

Description of Technology: Immunotoxins are chimeric molecules comprising an antibody targeting moiety and a toxin domain capable of killing a cell. Immunotoxins represent an important therapeutic tool for the treatment of cancer because they are able to specifically target cancer cells while ignoring healthy cells. The major drawback to immunotoxins is the development of neutralizing antibodies against the toxin portion of the immunotoxin. Many patients treated with *Pseudomonas* exotoxin A (PE) based immunotoxins develop neutralizing antibodies after the first administration. As a result, only one effective administration of a PE-based immunotoxin is often possible.

NIH inventors have created a novel immunotoxin, where the toxin portion is a truncated Cholera exotoxin (cholix toxin). Although cholix toxin retains strong functional and structural similarity to PE, neutralizing antibodies to PE do not affect the truncated cholix toxin. As a result, cholix toxin-based immunotoxins are of potential utility after a patient has developed neutralizing antibodies to PE. The ability to deliver two rounds of immunotoxins to a patient will increase the successful treatment of various diseases, including cancer.

Application:

• Used as an alternative toxin moiety in immunotoxins.

• Immunotoxins can be used for the treatment of various cancers, depending on the targeting antibody.

• Can be used in tandem immunotoxin therapy with immunotoxins having distinct toxin moiety, such as PE-based immunotoxins.

Advantages:

• Cholix toxin-based immunotoxins are not affected by neutralizing antibodies to by PE-based immunotoxins, permitting multiple rounds of immunotoxin therapy.

• Ability to target specific cells by choosing specific targeting antibodies.

Inventors: David J. FitzGerald and Robert J. Sarnovsky (NCI).

Patent Status: U.S. Provisional Application No. 61/058,872 filed 04 Jun 2008 (HHS Reference No. E–194–2008/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: David A. Lambertson, Ph.D.; 301–435–4632; *lambertsond@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, CCR, Laboratory of Molecular Biology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize immunotoxins composed of cholera exotoxin. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Large Semi-Synthetic Human Antibody Domain Fragment Library

Description of Technology: Human monoclonal antibodies are important for the development of inhibitors, vaccines, diagnostic and research tools. Previously a large non-immune human antibody library (15 billion (15×10^9) clones) was constructed from the lymph nodes, spleen and peripheral blood lymphocytes of 50 donors. One antibody, isolated from this library, includes a stop codon in the light chain but was still expressed and included a functional heavy chain. The VH domain exhibits high levels of expression and high solubility even in the absence of a light chain variable domain. This VH domain was used as a framework to construct a large human VH domain library (25 billion clones) by grafting naturally occurring complementarity determining regions (CDRs) from other human antibody libraries and randomly mutating one of the CDRs. This library has been used internally for selecting anti-HIV antibodies, viruses of biodefense interest and cancer-related antigens and is available for licensing as a biological material. Several high-affinity binders have already been identified.

The antibodies generated from this library are small (e.g., about more than 14 kDa), highly stable and can be expressed at high levels as monomers. The library permits the isolation of antibodies with favorable properties: affinity, stability, solubility, high levels of expression (at low cost), low rejection rates and low toxicity.

Applications: Antibody discovery; Therapeutics; Diagnostics; Research Materials.

Inventors: Dimiter S. Dimitrov and Weizao Chen (NCI).

Relevant Publications:

1. W Chen, Z Zhu, Y Feng, X Xiao, DS Dimitrov. Construction of a large phage-displayed human antibody domain library with a scaffold based on a newly identified highly soluble, stable heavy chain variable domain. J Mol Biol (2008), in press.

2. P Jirholt *et al.* Exploiting sequence space: Shuffling *in vivo* formed complementarity determining regions into a master framework. Gene. 1998 Jul 30;215(2):471–476.

3. Y Reiter *et al.* An antibody single-domain phage display library of a native heavy chain variable region: Isolation of functional single-domain VH molecules with a unique interface. J Mol Biol. 1999 Jul 16;290(3):685–698.

4. E Söderlind *et al.* Recombining germline-derived CDR sequences for creating diverse single framework antibody libraries. Nat Biotechnol. 2000 Aug 18;18(8):852–856.

5. LJ Holt *et al.* Domain antibodies: Proteins for therapy. Trends Biotechnol. 2003 Nov;21(11):484–490.

6. L Riechmann and S Muyldermans. Single domain antibodies: Comparison of camel VH and camelised human VH domains. J Immunol Methods. 1999 Dec 10;231(1–2)25–38.

Patent Status: HHS Reference No. E–037–2008/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301/435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute's Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Large Semi-Synthetic Human Antibody Domain Library. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Methods of Preventing Tissue Ischemia

Description of Technology: Nitric oxide (NO) plays an important role as a major intrinsic vasodilator, and increases blood flow to tissues and organs. Disruption of this process leads to peripheral vascular disease, ischemic heart disease, stroke, diabetes, and many more significant diseases.

Researchers at the NIH have discovered that the matrix protein thrombospondin-1 blocks the beneficial effects of NO, and prevents it from dilating blood vessels and increasing blood flow to organs and tissues. Additionally, the inventors discovered that this regulation requires interaction with thrombospondin-1's cell receptor CD47. Murine studies revealed that, in the presence of NO, genetically altered mice, lacking either thrombospondin-1 or CD47, showed dramatically improved blood flow and tissue oxygenation. The inventors have also shown in both mice and pigs that by targeting thrombospondin-1 and/or CD47, blood flow can be dramatically increased to ischemic tissues. The same therapeutics also were found to protect tissues from ischemia/reperfusion injury.

Available for licensing and commercial development are:

• Compositions and methods of treating tissue ischemia and/or tissue damage due to ischemia, increasing blood vessel diameter, blood flow and tissue perfusion in the presence of vascular disease including peripheral vascular disease, atherosclerotic vascular disease and stroke.

• Compositions and methods for decreasing blood flow as in the case of cancer through mimicking the effects of thrombospondin-1 and CD47 on blood vessel diameter and blood flow.

Applications:

• Potential therapeutics for precise regulation of blood flow to tissues and organs.

• Efficient methods to increase tissue survival under conditions of trauma and surgery.

• Efficient methods for the treatment of elderly subjects using agents that affect thrombospondin-1 and CD47 and thereby affect tissue perfusion.

• Methods for treatment of ischemia/reperfusion injury as associated with transplant surgery.

Market:

• People with ischemic disease are at increased risk of heart attack (myocardial infarction), stroke and peripheral vascular disease (PVD). Ischemic heart disease attributes to

more deaths, with 24 percent in the U.S., than any other cause.

• Cerebral ischemia is the third leading cause of death after heart diseases and cancer.

• Decreased blood flow underlies a significant number of chronic diseases that account for the majority of morbidity and mortality for elderly adults in this country.

• Cancer patients and traumatic injury victims requiring reconstructive surgery.

• Burn patients requiring skin transplants.

• Organ transplant patients.

Development Status: Early-stage of development (*in vivo* data available in mice and pigs).

Inventors: Jeff S. Isenberg *et al.* (NCI).

Patent Status: PCT Application No. PCT/US2007/080647 filed 5 Oct 2007, which published as WO 2008/060785 on 22 May 2008 (HHS Reference No. E–227–2006/5–PCT–01).

Licensing Status: Available for licensing.

Licensing Contact: Charlene A. Sydnor, PhD; 301–435–4689; *sydnorc@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute Center for Cancer Research, Laboratory of Pathology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize therapeutics targeting CD47 or thrombospondin-1. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Total Synthesis of Northebaine, Normorphine, Noroxymorphone Enantiomers and Derivatives via N-Nor Intermediates

Description of Technology: A new synthetic process has been found in which nordihydrocodeinone, an early intermediate in the total synthesis of codeine and related compounds, is easily formed into a number of N-nor compounds. These N-nor compounds can be used as precursors in the formation of narcotics, narcotic antagonists, or narcotic agonist-antagonists.

The manufacture of drugs of this type, such as northebaine or normorphine, can now be done without the use of thebaine as starting material. The syntheses have fewer steps than previous methods, and also have high yields. In addition, very significant simplification of existing thebaine based processes for the manufacture of opiates can be expected.

Applications: Potential new methodology for the synthesis of intermediates for drugs including naloxone, naltrexone, percodan and nalbuphine.

Market:

• More than a quarter of Americans suffer daily pain, a condition that costs the U.S. about $60 billion a year in lost productivity.

• Americans spent about $2.6 billion in over-the-counter pain medications and another nearly $14 billion on outpatient analgesics in 2004.

• Worldwide, nearly 300 million people are believed to suffer from chronic pain.

Inventors: Kenner C. Rice *et al.* (NIDDK)

Patent Status:

HHS Reference No. E–012–1986/1—

• Australian Patent 642447 issued 15 Feb 1994.

• Japanese Patent 2694156 issued 12 Sept 1997.

• Canadian Patent 2067200 issued 30 Jun 1998.

• European Patent 0496830 issued 31 Mar 1999 in Austria, Switzerland, Germany, Denmark, Greece, Luxembourg, Spain, Belgium, The Netherlands, Sweden, France, Italy and United Kingdom.

HHS Reference No. E–012–1986/2—

• United States Patent 5,668,285 issued 16 Sept 1997.

Licensing Status: Available for licensing.

Licensing Contact: Charlene A. Sydnor, PhD; 301–435–4689; *sydnorc@mail.nih.gov.*

Dated: August 18, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–19914 Filed 8–27–08; 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.

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Botulinum Toxoid

Description of Technology: Vaccination is the only approach that can be used to prevent botulism. A pentavalent botulinum toxoid comprised of formalin-detoxified botulinum neurotoxin (BoNT) BoNT/A, B, C, D and E hemagglutinin (Hmg) complexes has been used to immunize laboratory and military personnel since 1961, but this has never been licensed by the United States Food and Drug Administration (FDA). Vaccination immediately after toxin exposure has no protective benefit because the immune response is relatively slow compared to the rate of intoxication. The only treatment that is available upon intoxication is antibody therapy, which entails the injection of equine-derived botulinum antitoxin (BAT) or human-derived botulinum immunoglobulin (BIG) to remove toxin from the blood. Antibody therapy does not alleviate symptoms of botulism, but can limit the amount of toxin that enters nerve terminals and thus may lessen the severity and shorten the duration of paralysis.

Since a vaccine can be used to either protect a human population or produce a BAT or BIG product, it is important to have reliable methods to evaluate the antigenic integrity of botulinum vaccines. An *in vitro* assay that can serve in this capacity would be useful for evaluating the consistency of the antigen throughout the manufacturing process, as well as generating data that may reduce *in vivo* testing.

Available for licensing are a variety of new toxoids useful as botulinum vaccine antigens, for BAT or BIG production, or for development of tests to evaluate antigenicity of botulinum vaccines. The toxoids of the invention are derived from the Serotype A and B 150 kDa neurotoxin proteins. The resulting toxoids are antigenically identical to the native toxin as measured by inhibition ELISA in spite of showing

a reduction of toxicity by more than 100,000-fold. Sandwich ELISA analysis indicated that the featured toxoids were two- to three-fold less antigenic than the native neurotoxin compared to commercially available toxoids, which were about 100-fold less antigenic.

Preclinical studies have been performed using the toxoids of the invention. Mice were immunized twice, on Day Zero (0) and Day Fourteen (14). By Day Twenty-Eight (28), relatively high toxin-specific IgG titers were detected in animals that had received any of the in-house toxoids, with greater than 99% being IgG1 and the remainder IgG2. These immunized mice remained asymptomatic after being challenged with Fifty (50) to One Million (1,000,000) median lethal dose (LD50) units of the 900 kDa neurotoxin. In contrast, animals immunized with several different batches of commercially available toxoids did not develop measurable toxin-specific antibody titers; however, these mice did survive neurotoxin challenges with Two (2) LD50 units, but died when challenged with Six (6) LD50 units.

This application claims the formalin-detoxified botulinum compositions described above and an in vitro method for characterizing the toxoids. Also claimed are methods of making the botulinum compositions, and methods of producing antitoxin to botulinum toxin.

Applications: ELISA development, production of equine or human-derived botulinum antitoxin, development of next generation botulism vaccines.

Development Status: Toxoids have been prepared and preclinical studies have been performed. Standard antibody reagents for ELISA assay development have been prepared.

Inventors: James E. Keller (FDA/CBER).

Publication: JE Keller. Characterization of New Formalin Botulinum Neurotoxin Toxoids. Clin Vaccine Immunol. 2008 Jul 30; Epub ahead of print, doi:10.1128/CVI.00117–08.

Patent Status: U.S. Provisional Application No. 61/036,904 filed 14 Mar 2008 (HHS Reference No. E–325–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301–435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The FDA Center for Biologics Evaluation and Research is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize botulinum toxoids. Please contact Alice Welch, PhD at 301–827–0359 or *Alice.Welch@fda.hhs.gov* for more information.

Magnetic Resonance Imaging Methods and Systems for Estimating Cone of Uncertainty

Description of Technology: In diffusion tensor MRI imaging it is desirable to determine and display the fiber tract dispersion, e.g., the eigenvectors and the associated uncertainties. For example, the unit eigenvector may be displayed with a cone of uncertainty around its tip. This conveys the notion that the direction of fiber is not known precisely. However, the known methods are directed to computation and visualization of a circular cone of uncertainty. These methods are suitable for practical computation and visualization of an elliptical cone of uncertainty. The current invention overcomes this problem by providing (1) a reconstruction procedure to construct the covariance matrix of a major eigenvector for each voxel of a region of interest of a subject, (2) a visualization technique to visualize the elliptical cone of uncertainty of the eigenvector, and (3) two reconstruction procedures to compute the normalized areal and circumferential measures of the elliptical cone of uncertainty. The methods can be used to diagnose medical disorders associated with anomalous changes in water diffusion. The methods can also be used in applications in material science and earth science (geomagnetism).

Applications: Magnetic Resonance Imaging; Diagnostics; Material science; Earth science (Geomagnetism).

Inventor: Cheng Guan Koay (NICHD).

Publications:

1. CG Koay *et al.* The elliptical cone of uncertainty and its normalized measures in diffusion tensor imaging. IEEE Trans Med Imaging. 2008 Jun;27(6):834–846.
2. CG Koay *et al.* Error propagation framework for diffusion tensor imaging via diffusion tensor representations. IEEE Trans Med Imaging. 2007 Aug;26(8):1017–1034.
3. CG Koay *et al.* A unifying theoretical and algorithmic framework for least squares methods of estimation in diffusion tensor imaging. J Magn Reson. 2006 Sep;182(1):115–125.

Patent Status: U.S. Provisional Application No. 60/996,169 filed 05 Nov 2007 (HHS Reference No. E–273–2007/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The NICHD, Section on Tissue Biophysics and Biomimetics, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Alan E. Hubbs, PhD at 301–594–4263 or *hubbsa@mail.nih.gov* for more information.

Dated: August 18, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–19915 Filed 8–27–08; 8:45 am]

BILLING CODE 4140–01–P

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National Institutes of Health

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Radiotracers for Imaging Cannabinoid Sub-Type1 (CB_1) Receptor

Description of Technology: The present invention relates to novel radiolabeled compounds for imaging cannabinoid sub-type 1 (CB_1) receptors in brains of mammals, particularly humans, using positron emission tomography (PET) or single photon emission computed tomography

(SPECT). These radioligands can be used in clinical research, diagnostics, or drug discovery and development, in that, they permit understanding of the role of CB_1 receptors in neuropsychiatric disorders such as Parkinson's disease, Huntington's disease, Alzheimer's disease, multiple sclerosis, depression, mood disorder, anxiety, schizophrenia, drug addiction, alcohol disorder, obesity and anorexia.

Applications:

• *In vivo* imaging of CB_1 receptor in mammals, particularly humans

• Diagnostic imaging of CB_1 receptors in subjects having a neurological, neuropsychiatric, neurodegenerative or other condition and treatment

• Pharmaceutical composition

• Diagnostic kits

Advantages: The principal radioligand under the claim is effective for imaging CB_1 receptors *in vivo* with PET.

Development Status: Primary radioligand has been evaluated in non-human primates with PET.

Market: Radioligands may be useful for performing drug occupancy studies of CB_1 receptors, and for neuropsychiatric studies and investigations with imaging techniques (*e.g.*, PET or SPECT).

Patent Status: U.S. Provisional Application No. 61/052,581 filed 12 May 2008 (HHS Reference No. E–155–2008/0–US–01).

Inventors: Victor W. Pike (NIMH), Sean R. Donohue (NIMH), *et al.*

Relevant Publications:

1. SR Donohue, C Halldin, VW Pike. Synthesis and structure-activity relationships (SARs) of 1,5-diarylpyrazole cannabinoid type-1 (CB_1) receptor ligands for potential use in molecular imaging. Bioorg Med Chem. 2006 Jun 1;14(11):3712–3720.

2. SR Donohue, VW Pike, SJ Finnema, P Truong, J Andersson, B Gulyás, C Halldin. Discovery and labeling of high affinity 3,4-diarylpyrazolines as candidate radioligands for *in vivo* imaging of cannabinoid subtype-1 (CB_1) receptors. J Med Chem., in press.

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: RC Tang, JD, LLM; 301–435–5031; *tangrc@mail.nih.gov.*

HIV Immunogen and Method of Making and Using Same

Description of Technology: The invention describes composition and methods of preventing HIV infection using a truncated version of the HIV gp41 subunit of *Env* fused to human Fc through a flexible linker as a vaccine immunogen. This immunogen binds several broadly cross-reactive HIV–1 neutralizing human monoclonal antibodies recently identified and developed by the inventor's laboratory, including m44. m44 does not react with self-antigen suggesting that this immunogen may elicit antibodies which are not regulated by tolerance mechanisms, a problem suggested as the cause of failure for some of the gp41-based immunogens previously tested. Rabbits immunized with this fusion construct developed broad-neutralizing antibodies against several HIV-isolates from different clades in a cell line/pseudovirus assay with high titer. Preclinical testing of these novel immunogens in primate models is currently being planned.

Applications: Treatment and prevention of HIV infection.

Advantages:

• Has potential to elicit broad neutralizing antibodies against several HIV isolates from different clades.

• Immunogen is based on the gp41 subunit of the HIV *Env*, a region more conserved than the gp120 subunit of *Env* and fusion to Fc increases the stability and half-life of the immunogen.

• Potentially elicits antibodies that are not regulated by tolerance mechanisms.

Development Status: Data can be provided upon request.

Market: Preventative or treatment for HIV infection.

Inventors: Dimiter S. Dimitrov and Mei-yun Zhang (NCI).

Publications:

1. M–Y Zhang, V Choudhry, IA Sidorov, V Tenev, BK Vu, A Choudhary, H Lu, GM Stiegler, HWD Katinger, S Jiang, CC Broder, DS Dimitrov. Selection of a novel gp41-specific HIV–1 neutralizing human antibody by competitive antigen panning. J Immunol Methods 2006 Dec 20;317(1–2):21–30.

2. M–Y Zhang, DS Dimitrov. Novel approaches for identification of broadly cross-reactive HIV–1 neutralizing human monoclonal antibodies and improvement of their potency. Curr Pharm Des. 2007;13(2):203–212.

3. V Choudhry, M–Y Zhang, IA Sidorov, JM Louis, I Harris, AS Dimitrov, P Bouma, F Cham, A Choudhary, SM Rybak, T Fouts, DC Montefiori, CC Broder, GV Quinnan, DS Dimitrov. Cross-reactive HIV–1 neutralizing monoclonal antibodies selected by screening of an immune human phage library against an envelope glycoprotein (gp140) isolated from a patient (R2) with broadly HIV–1 neutralizing antibodies. Virology 2007 Jun 20;363(1):79–90.

4. M–Y Zhang, BK Vu, A Choudhary, H Lu, M Humbert, H Ong, M Alam, RM Ruprecht, G Quinnan, S Jiang, DC Montefiori, JR Mascola, CC Broder, BF Haynes, DS Dimitrov. Cross-reactive human immunodeficiency virus type 1-neutralizing human monoclonal antibody that recognizes a novel conformational epitope on gp41 and lacks reactivity against self-antigens. J Virol. 2008 Jul;82(14):6869–6879.

Patent Status: U.S. Provisional Application No. 61/126,662 filed 06 May 2008 (HHS Reference No. E–072–2008/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Sally Hu, Ph.D.; 301–435–5606, *HuS@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute CCR Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Cross-Reactive Neutralizing Human Domain Antibody Against HIV–1

Description of Technology: The invention describes the first identified anti-HIV human domain antibody (m36), which can potentially be used alone or synergistically with other anti-HIV antibodies and antiretroviral drugs as a therapeutic and/or preventative for HIV infection. It targets an epitope whose exposure is enhanced by binding of the HIV receptor CD4 to the HIV envelope glycoprotein (Env). M36 was identified by sequential panning of a newly developed large human VH library against Envs from different HIV–1 isolates. The antibody can neutralize HIV–1 primary isolates from different clades at low (nM) concentrations and due to its small size (14 kDa) is potentially able to efficiently penetrate lymphoid tissues where the virus replicates. The antibody is fairly well characterized and the inventors are generating derivatives of this antibody to improve the half-life and increase its potency and cross-reactivity.

Applications: Treatment and prevention of HIV infections.

Advantages:

• Human monoclonal antibody, thus eliminating some of the issues associated with humanized or murine monoclonal antibodies.

• Potential neutralization of HIV–1 primary isolates from different clades at nM concentrations.

• Relatively small size allows for potential efficient penetration into lymphoid tissues.

Development Status: In vitro data is available.

Market: HIV therapeutics and preventatives.

Inventors: Dimiter Dimitrov and Weizao Chen (NCI).

Publications:

1. MY Zhang *et al.* Identification of a Novel CD4i human monoclonal antibody Fab that neutralizes HIV–1 primary isolates from different clades. Antiviral Res. 2004 Mar;61(3):161–164.
2. MY Zhang *et al.* Improved breath and potency of an HIV–1 neutralizing human single-chain antibody by random mutagenesis and sequential antigen panning. J Mol Biol. 2004 Jan 2;335(1):209–219.
3. CC Huang *et al.* Structure of a V3-containing HIV–1 gp120 core. Science 2005 Nov 11; 310(5750):1025–1028.
4. W Chen *et al.* Construction of a large phage-displayed human antibody domain library with a scaffold based on a newly identified highly soluble, stable heavy chain variable domain. J. Mol Biol. 2008, in press.
5. W Chen *et al.* Human domain antibodies to conserved sterically restricted regions on gp120 as exceptionally potent cross-reactive HIV–1 neutralizers. Proc Natl Acad Sci USA., under review.

Patent Status: U.S. Patent Application No. 61/019,426 filed 07 Jan 2008 (HHS Reference No. E–043–2008/0–US–01).

Licensing Status: This invention is available for exclusive or non-exclusive licensing.

Licensing Contact: Sally Hu, Ph.D.; 301–435–5606, *HuS@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute CCR Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize domain antibodies and nanoantibodies against HIV. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Monodisperse and Modified *Yersinia pestis* Capsular F1–V Antigen Fusion Proteins for Vaccination Against Bubonic and Pneumonic Plague

Description of Technology: An effective plague vaccine against *Yersinia pestis* is currently unavailable in the U.S. The F1–V (fusion of two *Y. pestis* proteins, the Fraction 1 capsular antigen and a second immunogen called the V-antigen) vaccine of this invention is a monodispersed, mutated form of F1–V fusion protein. This is a promising candidate for commercialization.

Features and benefits include:

- The vaccine is substantially monomeric but does not tend to self-associate and form aggregates.
- The antigen fusion proteins retain immunogenicity.
- The associated, new manufacturing process provides an inexpensive means of making an effective vaccine.
- The method eliminates the need for mixing components that is the case with competitive technology.

Applications:

- An effective vaccine is needed where plague is endemic.
- An important biodefense countermeasure against dissemination of weaponized plague is sought.

Inventors: David F. Nellis and Steven L. Giardina (NIAID).

Relevant Publication: JL Goodin et al. Purification and protective efficacy of monomeric and modified *Yersinia pestis* capsular F1–V antigen fusion proteins for vaccination against plague. Protein Expr Purif. 2007 May;53(1):63–79.

Patent Status: U.S. Patent Application No. 11/944,230 filed 21 Nov 2008 (HHS Reference No. E–189–2007/0–US–01).

Development Status: The technology is in pre-clinical stage of development.

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Cristina Thalhammer-Reyero, Ph.D., M.B.A.; 301–435–4507; *thalhamc@mail.nih.gov.*

Collaborative Research Opportunity: The NIAID is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this plague vaccine. Please contact Marguerite J. Miller at 301–435–8619 /or *millermarg@niaid.nih.gov* for more information.

Dated: August 18, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–19917 Filed 8–27–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2008–0087]

Data Privacy and Integrity Advisory Committee

AGENCY: Office of the Secretary, DHS.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Data Privacy and Integrity Advisory Committee will meet on September 17, 2008 in Las Vegas, NV. This meeting will be open to the public.

DATES: The Data Privacy and Integrity Advisory Committee will meet on Wednesday, September 17, 2008 from 9 a.m. to 12 p.m. and 1 p.m. to 4:20 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held in a conference room in the Hampton Inn Tropicana and Southwest Event Center, 4975 Dean Martin Drive, Las Vegas, NV 89118. Send written materials, comments, and requests to make oral presentations to Ken Hunt, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528. Written materials, comments, and requests to make oral presentations at the meeting should reach the contact person listed by September 8, 2008. Requests to have a copy of your material distributed to each member of the committee prior to the meeting should reach the persons listed under **FOR FURTHER INFORMATION CONTACT**, below, by September 8, 2008. Persons wishing to make comments or who are unable to attend or speak at the meeting may submit comments at any time. All submissions received must include the docket number DHS–2008–0087 and may be submitted by any one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments on the Web site.
- *E-mail: PrivacyCommittee@dhs.gov.* Include docket number in the subject line of the message.
- *Fax:* (866) 466–5370.
- *Mail:* Mr. Ken Hunt, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security Data Privacy and Integrity Advisory Committee'' and the docket number: DHS–2008–0087. Comments received will also be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Committee, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Hugo Teufel III, Chief Privacy Officer, or Ken Hunt, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland

Security, Washington, DC 20528, by telephone (703) 235–0780 or by fax (703) 235–0442, or by e-mail *PrivacyCommittee@dhs.gov*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

During the meeting, the DHS Chief Privacy Officer will provide an update on the activities of the DHS Privacy Office. In the morning session, the Committee will hear an update on privacy activities within the Las Vegas fusion center and from a panel of newly appointed DHS component privacy officers and privacy points of contact. In the afternoon, representatives of the Department's Science and Technology Directorate will brief the Committee on research and development activities at the Department having an impact on privacy. A tentative agenda is posted on the Privacy Advisory Committee Web site at *http://www.dhs.gov/privacy*.

At the discretion of the Chair, members of the public may make brief (*i.e.* , no more than three minutes) oral presentations from 4 p.m.–4:20 p.m. If you would like to make an oral presentation at the meeting, please register in advance or sign up on the day of the meeting. If you would like a copy of your material(s) distributed to each member of the committee in advance, please submit 22 copies to Ken Hunt by September 8, 2008.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ken Hunt as soon as possible.

Dated: August 21, 2008.

John Kropf,

Deputy Chief Privacy Officer.

[FR Doc. E8–20016 Filed 8–27–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1763–DR]

Iowa; Amendment No. 17 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 Iowa (FEMA–1763–DR), dated May 27, 2008, and related determinations.

EFFECTIVE DATE: August 13, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 13, 2008.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–19984 Filed 8–27–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–400, Revision of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form N–400, Application for Naturalization; OMB Control No. 1615–0052.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. USCIS previously published this information collection as an extension in the **Federal Register** on May 16, 2008, at 73 FR 28493, allowing for a 60-day public comment period. During the 60-day public comment period, USCIS decided to revise the Form N–400 instructions. Therefore USCIS is publishing this 30-Day information collection notice as a revision. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 29, 2008. This process is conducted in accordance with 5 CFR 1320.10.

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 Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *oira_submission@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0052 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision a Currently Approved Information Collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–400. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information on this form to determine an applicant's eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 700,000 responses at 6 hours and 8 minutes (6.13 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,291,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://www.regulations.gov/search/index.jsp.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: August 25, 2008.

Sunday Aigbe,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–19959 Filed 8–27–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2008–N0228; 96300–1671–0000–P5]

Emergency Exemption: Issuance of Permit for Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of emergency issuance of permit for endangered species.

SUMMARY: The following permit was issued.

ADDRESSES: Documents and other information submitted for this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: On August 15, 2008, the U.S. Fish and Wildlife Service (Service) issued a permit (PRT–192748) to the Alaska Department of Fish and Game, Fairbanks, AK, to take one captive held male wood bison (*Bison bison athabascae*) for the purpose of scientific research into animal and human health. This action was authorized under Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The Service determined that an emergency affecting the health and life of the Alaska captive held population existed, and that no reasonable alternative was available to the applicant for the following reasons:

One seven year old adult male wood bison owned by the State of Alaska and held at the Alaska Wildlife Conservation Center, Girdwood, Alaska, became weak and emaciated, and tested positive for Cryptosporidium, threatening the health of other wood bison in the captive herd and presenting a risk to human health.

Dated: August 15, 2008.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E8–19912 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2008–N0227; 96300–1671–0000–P5]

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by September 29, 2008.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: U.S. Fish and Wildlife Service/California Condor Recovery Program, Ventura, CA, PRT–185756

The applicant requests a permit to re-export one dead male captive-born specimen of a California condor (*Gymnogyps californianus*) to the Secretaria de Medio Ambiente y Recursos Naturales (SEMARNAT), Mexico City, Mexico for the purpose of enhancement of the species through conservation education.

Applicant: U.S. Fish and Wildlife Service/Whooping Crane Recovery Program, Austwell, TX, PRT–189482

The applicant requests a permit to export one dead male captive-born specimen of a whooping crane (*Grus americana*) to the Secretaria de Medio Ambiente y Recursos Naturales (SEMARNAT), Mexico City, Mexico for the purpose of enhancement of the species through conservation education.

Dated: August 15, 2008.

Lisa J. Lierheimer,

Senior Permit Biologist,Branch of Permits,Division of Management Authority.

[FR Doc. E8–19911 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2008–N0091; 60138–1265–6CCP–S3]

Draft Comprehensive Conservation Plan for Twelve National Wildlife Refuges, North Dakota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce that our Draft Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) for the twelve National Wildlife Refuges (Refuges) are available. The twelve Refuges are combined and evaluated as one group and program under the CCP. The twelve Refuges include Audubon, Chase Lake, Kellys Slough, Lake Alice, Lake Ilo, Lake Nettie, Lake Zahl, McLean, Shell Lake, Stump Lake, Stewart Lake, and White Lake all located throughout the State of North Dakota. This Draft CCP/EA describes how the Service intends to manage these Refuges for the next 15 years.

DATES: To ensure consideration, we must receive your written comments on the draft CCP/EA by September 29, 2008.

ADDRESSES: Please provide written comments to John Esperance, Planning Team Leader, Division of Refuge Planning, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225; via facsimile at 303–236–4792; or electronically to *John_Esperance@fws.gov*. A copy of the CCP/EA may be obtained by writing to U.S. Fish and Wildlife Service, Division of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, Colorado 80228; or by download from *http://mountain-prairie.fws.gov/planning.*

FOR FURTHER INFORMATION CONTACT: John Esperance, 303–236–4369 (phone); 303–236–4792 (fax); or *John_Esperance@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION: All twelve Refuges were established under authority to provide breeding ground for migratory birds and other wildlife. The twelve National Wildlife Refuges conserve, restore, and enhance the ecological diversity of grasslands and wetlands of the North Dakota prairie to support healthy populations of ducks and geese, other migratory birds, and native species. Through this work, the twelve Refuges provide vital resting and breeding habitat.

This draft CCP/EA identifies and evaluates three alternatives for managing the Refuges for the next 15 years.

Alternative A: Funding, staff levels, and management activities at the Refuges would not change. Programs would follow the same direction, emphasis, and intensity as they do at present. The Service would prioritize management of wildlife habitat and associated species on Refuges' lands into high, medium, and low areas. Only high priority lands receive consistent management. Refuge staffs conduct limited, issue-driven research and limited monitoring and inventory of birds and vegetation. On a multiyear rotation among Refuges, the staffs conduct public use events and workshops with such groups as school districts, youth groups, and conservation groups.

Alternative B: The Service's proposedaction. Wildlife habitat management would provide for enhanced wetland and upland management, where warranted, on Refuge lands. Management objectives for various habitat types would be based on habitat preferences of groups of target species, such as waterfowl, migratory shore birds, grassland bird species and priority species. Refuge staff will focus on high priority tracts and medium priority tracts. The Refuge staff will implement compatible production enhancement techniques for targeted migratory bird populations. The Refuge staff will maintain existing environmental education and public use programs, with additional waterfowl emphasis. The Service proposes, at a future date, a new environmental learning center for Audubon NWR and interpretive panels are planned for Lake Alice NWR.

Alternative C: Refuge staff would apply more intensive and widespread management that targets native prairie/wetland complexes. Refuge staff would seek out restoration projects that expand and return grasslands to a quality native prairie. This alternative would have the potential to provide additional management options to address habitat requirements and needs of specific groups of water dependent birds (for example, waterfowl and shorebirds). The staff would develop new environmental education and visitor services programs. The Service proposes, at a future date, a new environmental learning center for Audubon NWR and interpretive panels are planned for Lake Alice NWR.

Opportunity for public input will be provided by the Service. All public comment information provided voluntarily by mail, by phone, or at meetings (for example, names, addresses, letters of comment, input recorded during meetings) becomes part of the official Public Record. If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information. The Environmental Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; Executive Order 12996; the National Wildlife Refuge System Improvement Act of 1997; and Service policies and procedures for compliance with those laws and regulations.

Dated: April 23, 2008.

Stephen Guertin,

Regional Director.

[FR Doc. E8–19724 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to OMB for Renewal

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs is submitting the following collection of information to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs for approval and renewal: Law and Order on Indian Reservations, which concerns marriage and dissolution of a marriage in a Court of Indian Offenses, OMB Control No. 1076–0094.

DATES: Written comments must be submitted by September 29, 2008.

ADDRESSES: Written comments to the Desk Officer for the Department of the Interior are to be e-mailed to *OIRA_DOCKET@omb.eop.gov*, or by telefacsimile to (202) 395–6566. Please send a copy to Joseph Little, Division of Tribal Justice Support, Bureau of Indian Affairs, 1001 Indian School Road, NW., Suite 251, Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Joseph Little, Bureau of Indian Affairs at (505) 563–3833.

SUPPLEMENTARY INFORMATION: On April 9, 2008, a notice of proposed renewal of OMB Control No. 1076–0094 was published in the **Federal Register** (73 FR 19240), which requested any comments. No comments were received.

I. Abstract

The Bureau of Indian Affairs must collect personal information to carry out the requirements of 25 CFR 11.600(c)—Marriage, and 25 CFR 11.606(c)—Dissolution of Marriage, in order for a Court of Indian Offenses to issue a marriage license or dissolve a marriage.

The information is collected at the initiation of an applicant and requests only basic information necessary for the Court of Indian Offenses to properly dispose of the matter.

II. Method of Collection

Basic information is requested of applicants for the issuance of a marriage license or for the dissolution of a marriage by a Court of Indian Offenses under 25 CFR part 11. Information is collected by the Clerk of the Court of Indian Offenses so that the functions under 25 CFR 11.600(c), and 11.606(c) may be carried out.

III. Information Collected

Courts of Indian Offenses have been established on certain Indian reservations under the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorize appropriations for ''Indian judges.'' See *Tillett* v. *Hodel*, 730 F.Supp. 381 (W.D. Okla. 1990), aff'd 931 F.2d 636 (10th Cir. 1991) *United States* v. *Clapox*, 13 Sawy. 349, 35 F. 575 (D.Ore. 1888). The courts provide adequate machinery for the administration of justice for Indian tribes in those areas where tribes retain jurisdiction over Indians and is exclusive of State jurisdiction but where tribal courts have not been established to exercise that jurisdiction. Accordingly, Courts of Indian Offenses exercise jurisdiction under 25 CFR part 11. Domestic Relations are governed by 25 CFR 11.600, which authorizes the Court of Indian Offenses to conduct marriages and dissolve marriages. In order to be married in a Court of Indian Offenses, a marriage license must be obtained (25 CFR 11.601). To comply with this requirement an applicant must respond to the following six questions found at 25 CFR 11.600(c):

(1) Name, sex, occupation, address, Social Security number, and date and place of birth of each party to the proposed marriage;

(2) If either party was previously married, his or her name, and the date, place, and court in which the marriage was dissolved or declared invalid or the date and place of death of the former spouse;

(3) Name and address of the parents or guardian of each party;

(4) Whether the parties are related to each other and, if so, their relationship;

(5) The name and date of birth of any child of which both parties are parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated; and

(6) A certificate of the results of any medical examination required by either applicable tribal ordinances, or the laws of the State in which the Indian country under the jurisdiction of the Court of Indian Offenses is located.

For the purposes of § 11.600, the Social Security Number information is requested to confirm identity. Previous marriage information is requested to avoid multiple simultaneous marriages, and to ensure that any pre-existing legal relationships are dissolved. Information on consanguinity is requested to avoid conflict with State or tribal laws against marriages between parties who are related by blood as defined in such laws. Medical examination information may be requested if required under the laws of the State in which the Court of Indian Offenses is located.

To comply with the requirement for dissolution of marriage, an applicant must respond to the following six questions found at 25 CFR 11.606(c):

(1) The age, occupation, and length of residence within the Indian country under the jurisdiction of the court of each party;

(2) The date of the marriage and the place at which it was registered;

(3) That jurisdictional requirements are met and that the marriage is irretrievably broken in that either: (i) The parties have lived separate and apart for a period of more than 180 days next preceding the commencement of the proceeding, or (ii) there is a serious marital discord adversely affecting the attitude of one or both of the parties toward the marriage, and there is no reasonable prospect of reconciliation;

(4) The names, age, and addresses of all living children of the marriage and whether the wife is pregnant;

(5) Any arrangement as to support, custody, and visitation of the children and maintenance of a spouse; and

(6) The relief sought.

For the purposes of § 11.606, Dissolution Proceedings, information on occupation and residency is necessary to establish Court of Indian Offenses jurisdiction. Information on the status of the parties, whether they have lived apart 180 days or if there is serious marital discord warranting dissolution, is necessary for the court to determine if dissolution is appropriate. Information on the children of the marriage, their ages and whether the wife is pregnant is necessary for the court to determine the appropriate level of support that may be required from the non-custodial parent.

OMB Control No.: 1076–0094.

Action: Renewal.

Description of the need for the information and proposed use of the information: The information is submitted in order to obtain or retain a benefit, namely, the issuance of a marriage license or a decree of dissolution of marriage from the Court of Indian Offenses.

Affected entities: Indian applicants that are under the jurisdiction of one of the 24 established Courts of Indian Offenses are entitled to receive the benefit of this action by the Court of Indian Offenses.

Estimated number of respondents: Approximately 260 applications for a marriage license or petition for dissolution of marriage will be filed in the 24 Courts of Indian Offenses annually.

Proposed frequency of responses: On occasion as needed.

Burden: The average burden of submitting a marriage license or petition for dissolution of marriage is 15 minutes per application. The total annual burden is estimated as 65 hours.

Estimated cost: There are no costs to consider.

IV. Request for Comments

The Department of the Interior invites members of the public to submit comments to OMB concerning:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.*Burden* means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose of, or provide information to a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

It is our policy to make all comments available to the public for review at 1001 Indian School Road, NW., Albuquerque, NM, during the hours of 8 a.m. to 5 p.m., Monday through Friday except for legal holidays. Please note that all comments received will be available for public review 2 weeks after comment period closes. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so. We do not consider anonymous comments. All comments from representatives of businesses or organizations will be made public in their entirety. We may withhold comments from review for other reasons.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget control number.

The Office of Management and Budget has 60 days in which to make a decision on whether to renew this information collection. However, they may make a decision after 30 days; therefore, your comments will receive maximum consideration if received within 30 days.

Dated: August 21, 2008.

Sanjeev "Sonny" Bhagowalia,

Chief Information Officer—Indian Affairs.

[FR Doc. E8–19909 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID 100 1150MA 241A: DBG081011]

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

DATES: The meeting will be held September 25, 2008 at the Boise District Offices beginning at 9 a.m. and adjourning at 4 p.m. Members of the public are invited to attend, and comment periods will be held during the course of the day.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho. A discussion will be held on the environmental assessment (EA) for the Murphy Creek Sub-region Travel Management Plan for the Owyhee Field Office. Copies of the EA will have been mailed to the members prior to the meeting. An update on development of the Four Rivers Field Office Resource Management Plan (RMP) will be given. Feedback will be requested on issues identified during the scoping period for the development of the environmental impact statement for the Four Rivers Field Office RMP. A briefing will be provided on the outcome of the public meetings and other outreach regarding BLM's announcement of route restrictions in the King Hill Creek Wilderness Study Area that RAC members toured in July. Hot Topics will be discussed by the District Manager, and Field Office managers will provide highlights on activities in their offices. Agenda items and location may change due to changing circumstances. All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM Coordinator as provided above.

Dated: August 21, 2008.

David Wolf,

Associate, District Manager.

[FR Doc. E8–19969 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–AL; GP8–0193]

Notice of Public Meeting, Eastern Washington Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Washington Resource Advisory Council will meet as indicated below.

DATES: Thursday, September 18, 2008, at the Institute for Extended Learning, South Elm Street, Colville, WA 99114.

SUPPLEMENTARY INFORMATION: The meeting will start at 9:30 a.m. and end at approximately 3:30 p.m. It will be open to the public and there will be an opportunity for public comments at 2:30 p.m. Discussion will focus on the status of projects of interest on BLM lands, and identification of topics of concern on the Colville National Forest.

FOR FURTHER INFORMATION CONTACT: Scott Pavey or Sandie Gourdin, BLM, Spokane District, 1103 N. Fancher Rd., Spokane Valley, WA 99212, or call (509) 536–1200.

Dated: August 22, 2008.

Sally Sovey,

Acting District Manager.

[FR Doc. E8–19956 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW159734]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Sun Cal Energy, Inc. for competitive oil and gas lease WYW159734 for land in Sublette County, Wyoming. The petition was

filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW159734 effective February 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19948 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW159737]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Sun Cal Energy, Inc. for competitive oil and gas lease WYW159737 for land in Sublette County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW159737 effective February 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19949 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161799]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Retamco Operating Inc. for competitive oil and gas lease WYW161799 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161799 effective April 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19952 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161800]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Retamco Operating Inc. for competitive oil and gas lease WYW161800 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161800 effective April 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19955 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161801]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Retamco Operating Inc. for competitive oil and gas lease WYW161801 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161801 effective April 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19957 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161802]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Retamco Operating Inc. for competitive oil and gas lease WYW161802 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161802 effective April 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19960 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161806]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Retamco Operating Inc. for competitive oil and gas lease WYW161806 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161806 effective April 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19962 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161810]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Retamco Operating Inc. for competitive oil and gas lease WYW161810 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of

$10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161810 effective April 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19963 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161815]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Retamco Operating Inc. for competitive oil and gas lease WYW161815 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161815 effective April 1, 2008, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E8–19964 Filed 8–27–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Amendment Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on August 21, 2008, proposed Modifications to the Consent Decree entered in *United States and New Mexico Office of the Natural Resources Trustee* v. *Bayard Mining Corp. et al.*, Civil Action No. 95–0285 MV/LFG, was lodged with the United States District Court for the District of New Mexico.

In this action, the parties to the Consent Decree have stipulated to modify the Consent Decree entered by the Court in this matter on June 12, 1995. The original Consent Decree was entered pursuant to Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') sections 106(a) and 107, 42 U.S.C. 9606(a) and 9607, and section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6903. The original Consent Decree addressed the cleanup of the Cleveland Mill Superfund Site, located near Silver City, New Mexico. Due to changes in the required response action at the Site, the parties have stipulated to modify this Consent Decree.

Since entry of the Consent Decree in 1995, a separate CERCLA removal action, conducted at the Site by the Settling Defendants pursuant to EPA's administrative authorities, has obviated the need for the remedial action required by the Consent Decree. Although the Settling Defendants have performed the work pursuant to these revised terms, the corresponding changes to the Consent Decree have not been made. The proposed modifications serve to harmonize the Consent Decree with the history of the response actions at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Proposed Modifications to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcommentees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States and New Mexico Office of the Natural Resources Trustee* v. *Bayard Mining Corp. et al.*, Civil Action No. 95–0285 MV/LFG, D.J. Ref. 90–11–3–1171.

During the public comment period, the Notice of Lodging of Proposed Consent Decree Modifications, together with its appendices, may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Attached to the Notice of Lodging are 10 Appendices, totaling 347 pages, which include, *inter alia,* the original Consent Decree and the Joint Stipulation to Modify Consent Decree. A copy of the Notice of Lodging and its appendices may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $2.75 (25 cents per page reproduction cost) for a complete copy of the Notice of Lodging of Proposed Consent Decree Modifications (without exhibits), or $89.50, for the Notice of Lodging with all exhibits. If the request is made by e-mail or fax, please forward a check in the appropriate amount to the Consent Decree Library at the stated address. The check should be payable to the U.S. Treasury.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–19922 Filed 8–27–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Public Comment Period for Proposed Second Amendment to Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Second Amendment to Consent Decree in *United States and the State of Minnesota* v. *Koch Petroleum Group, L.P*, (Civil Action No. 00–CV–2756), which was lodged with the United

States District Court for the District of Minnesota on August 22, 2008.

The parties are amending the Consent Decree in this national, multi-facility Clean Air Act (''Act'') enforcement action against Koch Petroleum Group, L.P, now known as Flint Hills Resources, LP (''FHR''), pursuant to section 113(b) of the Clean Air Act (''CAA''), 42 U.S.C. 7413(b) (1983), *amended by*, 42 U.S.C. 7413(b) (Supp. 1991). The original settlement, covering three refineries, was entered by the Court on April 25, 2001, as part of EPA's Petroleum Refinery Initiative.

This proposed Second Amendment applies to the fluidized catalytic cracking unit (''FCCU'') at FHR's Corpus Christi East Refinery in Texas and allows FHR to install an alternative control technology for the reduction of nitrogen oxide (''NO_X'') emissions from that unit. FHR will complete the installation by December 31, 2010, and begin meeting a more stringent annual average NO_X limit of 20 parts per million (''ppm''), effective January 1, 2011. This more stringent limit will likely result in an additional 171.5 tpy reduction of NO_X beyond what the original Decree required from pre-control baseline emission levels.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Second Amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and the State of Minnesota* v. *Koch Petroleum Group, L.P.*, D.J. Ref. 90–5–2–1–07110.

During the public comment period, the Amendment may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Amendment may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $1.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–19920 Filed 8–27–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0064]

Agency Information Collection Activities: Existing Collection; Comment Requested

ACTION: 30-Day Notice of Information Collection Under Review: Extension and revision of existing collection:Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

The Department of Justice (DOJ), Office of Justice Programs, will be submitting the following information collection 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 published in the **Federal Register** Volume 73, Number 122, page 35712–35714 on June 24, 2008, allowing for a 60 day public comment period.

The purpose of this notice is to allow an additional 30 days for public comments until September 29, 2008. This process is 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) 395–7285.

Request 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 points:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies 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 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 submissions of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms: CJ–7 Annual Parole Survey; CJ–8 Annual Probation Survey; and CJ–8A Annual Probation Survey (Short Form). Corrections Statistics Program, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: State Departments of Corrections or State probation and Parole authority. Others: The Federal Bureau of Prisons, city and county courts and probation offices for which a central reporting authority does not exist. For the CJ–7 form, 54 central reporters (two State jurisdictions in California and one each from the remaining States, the District of Columbia, the federal system, and one local authority) responsible for keeping records on parolees will be asked to provide information for the following categories:

(a) As of January 1, 2008 and December 31, 2008, the number of adult parolees under their jurisdiction;

(b) The number of adults entering parole during 2008 through discretionary release from prison, mandatory release from prison, a term of supervised release, or reinstatement of parole;

(c) The number of adults released from parole during 2008 through completion, incarceration, treatment,

absconder status, transfer to another parole jurisdiction, or death;

(d) Whether the number of adult parolees reported as of December 31, 2008 represents individuals or cases;

(e) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2008, and the number of adult parolees supervised out of State;

(f) As of December 31, 2008, the number of adult parolees under their jurisdiction with a sentence of more than one year, or a year or less;

(g) As of December 31, 2008, the number of male and female adult parolees under their jurisdiction;

(h) As of December 31, 2008, the number of white (not of Hispanic origin), black or African American (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian, Native Hawaiian or Pacific Islander, two or more races, or the number of adult parolees for which no information was available;

(i) As of December 31, 2008, the number of adult parolees who had as their most serious offense a violent, property, drug, weapons, or other offense;

(j) As of December 31, 2008, the number of adult parolees under their jurisdiction who were active, only have financial conditions remaining, inactive, absconders, or supervised out of state;

(k) As of December 31, 2008, the number of adult parolees under their jurisdiction who were supervised following a discretionary release, a mandatory release, a term of supervised release, a special conditional release, or other type of release from prison;

(l) Whether the parole authority supervised any adult parolees who were also on probation supervision, held in local jails, prisons, or an ICE holding facility, and the number of adult parolees held in each on December 31, 2008;

(m) Whether the parole authority used a Global Positioning System (GPS) to track the location of adult parolees, and if so, the number of adult parolees tracked using GPS on December 31, 2008, and of the number of those parolees tracked using GPS, the number who were sex offenders.

For the CJ–8 form, 344 reporters (one from each State, the District of Columbia, and the federal system; and 292 from local authorities) responsible for keeping records on probations will be asked to provide information for the following categories:

(a) As of January 1, 2008 and December 31, 2008, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation during 2008 with and without a sentence to incarceration;

(c) The number of adults discharged from probation during 2008 through completion, incarceration, treatment, absconder status, a detainer or warrant, transfer to another parole jurisdiction, and death;

(d) Whether the number of adult probationers reported as of December 31, 2008 represents individuals or cases;

(e) As of December 31, 2008, the number of male and female adult probationers under their jurisdiction;

(f) As of December 31, 2008, the number of white (not of Hispanic origin), black or African American (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian, Native Hawaiian or Pacific Islander, two or more races, or the number of adult probationers for which no information was available;

(g) As of December 31, 2008, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type;

(h) As of December 31, 2008, the number of adult probationers who had as their most serious offense domestic violence, sex offense, other violent offense, property offense, drug law violation, driving while intoxicated or under the influence of alcohol or drugs, other traffic offense, or other offense;

(i) Whether adult probationers supervised out of State have been included in the total number of probationers on December 31, 2008, and the number of adult probationers supervised out of State;

(j) Whether the probation authority collects data on the number of adult probationers who had previously served a sentence to prison for the same offense for which they are on probation;

(k) Whether the probation authority supervised adult probationers who were also on parole supervision, any probationers held in local jails, prisons, community-based correctional facilities, or an ICE holding facility, and the number of adult probationers held in each on December 31, 2008;

(l) As of December 31, 2008, the number of adult probationers under their jurisdiction who had entered probation with a direct sentence to probation, a split sentence to probation, a suspended sentence to incarceration, or a suspended imposition of sentence;

(m) As of December 31, 2008, the number of adult probationers under their jurisdiction who were active, in a residential or other treatment program, only had financial conditions remaining, inactive, absconders, those on warrant status, or supervised out of state;

(n) Whether the probation authority used a Global Positioning System (GPS) to track the location of adult probationers, and if so, the number of adult probationers tracked using GPS on December 31, 2008, and of the number of those probationers tracked using GPS, the number who were sex offenders.

For the CJ–8A form, 120 reporters (from local authorities) responsible for keeping records on probationers will be asked to provide information for the following categories:

(a) As of January 1, 2008 and December 31, 2008, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation and discharged from probation during 2008;

(c) Whether the number of adult probationers reported as of December 31, 2008 represents individuals or cases;

(d) As of December 31, 2008, the number of male and female adult probationers under their jurisdiction;

(e) As of December 31, 2008, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 518 respondents each taking an average of 1.27 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 657 annual burden hours.

If additional information is required, contact: Ms. 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: August 25, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–19997 Filed 8–27–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Parole Commission

Record of Vote of Meeting Closure (Pub. L. 94–409) (5 U.S.C. 552b)

I, Cranston J. Mitchell of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11:30 a.m., on Thursday, August 14, 2008, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide one petition for reconsideration pursuant to 28 CFR 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Cranston J. Mitchell, Isaac Fulwood, Jr. and Patricia K. Cushwa.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: August 18, 2008.

Cranston J. Mitchell,

Vice Chairman, U.S. Parole Commission.

[FR Doc. E8–19847 Filed 8–27–08; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Notice of Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of Affirmative Decisions on Petitions for Modification Granted in Whole or in Part.

SUMMARY: The Mine Safety and Health Administration (MSHA) enforces mine operator compliance with mandatory safety and health standards that protect miners and improve safety and health conditions in U.S. Mines. This **Federal Register** Notice (FR Notice) notifies the public that it has investigated and issued a final decision on certain mine operator petitions to modify a safety standard.

ADDRESSES: Copies of the final decisions are posted on MSHA's Web site at *http://www.msha.gov/indexes/petition.htm.* The public may inspect the petitions and final decisions during normal business hours in MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209. All visitors must first stop at the receptionist desk on the 21st Floor to sign-in.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Reynolds, Acting Deputy Director, Office of Standards, Regulations, and Variances at 202–693–9449 (Voice), *reynolds.lawrence@dol.gov* (E-mail), or 202–693–9441 (Telefax), or 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. Introduction

Under section 101 of the Federal Mine Safety and Health Act of 1977, a mine operator may petition and the Secretary of Labor (Secretary) may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) an alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) that the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA has granted or partially granted the following petitions for modification:

• *Docket Number:* M–2007–066–C.

FR Notice: 72 FR 70351 (December 11, 2007).

Petitioner: Knight Hawk Coal, LLC, 501 Barwick Road, Elkville, Illinois 62932.

Mine: Royal Falcon Mine, MSHA I.D. No. 11–03162, located in Jackson County, Illinois.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment) and 30 CFR 18.35 (Portable (trailing) cables and cords) .

• *Docket Number:* M–2007–071–C.

FR Notice: 73 FR 4638 (January 25, 2008).

Petitioner: Independence Coal Company, HC 78, Box 1800, Madison, West Virginia 25130.

Mine: Allegiance Mine, MSHA I.D. No. 46–08735, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility).

Lawrence D. Reynolds,

Acting Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. E8–19919 Filed 8–27–08; 8:45 am]

BILLING CODE 4510–43–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58415; File No. PCAOB–2008–03]

Public Company Accounting Oversight Board; Order Approving Proposed Ethics and Independence Rule 3526, *Communication With Audit Committees Concerning Independence*, Amendment to Interim Independence Standards, and Amendment to Rule 3523, *Tax Services for Persons in Financial Reporting Oversight Roles*

August 22, 2008.

I. Introduction

On April 24, 2008, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') proposed rule changes (PCAOB–2008–03) pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the ''Act''), relating to the Board's Ethics and Independence Rules. Notice of the proposed rule changes was published in the **Federal Register** on July 14, 2008.[1] The Commission received three comment letters relating to the proposed rule changes. For the reasons discussed below, the Commission is granting approval of the proposed rule changes.

II. Description of Proposed Rule Changes

Section 103(a) of the Act directs the PCAOB to establish auditing and related attestation standards, quality control standards, and ethics standards to be used by registered public accounting firms in the preparation and issuance of

[1] *See* SEC Release No. 34–58121 (Jul. 9, 2008); 73 FR 40418 (Jul. 14, 2008).

audit reports as required by the Act or the rules of the Commission.

In connection with its standards-setting function, the Board adopted in 2003 on an initial, transitional basis five temporary rules that incorporate the pre-existing professional standards of auditing, attestation, quality control and ethics and independence (the ''interim standards'').[2] The interim standards include Independence Standards Board Standard No. 1, *Independence Discussions with Audit Committees* (''ISB No. 1''), ISB Interpretation 00–1, *The Applicability of ISB Standard No. 1 When ''Secondary Auditors'' Are Involved in the Audit of a Registrant*, and ISB Interpretation 00–2, *The Applicability of ISB Standard No. 1 When ''Secondary Auditors'' Are Involved in the Audit of a Registrant, An Amendment of Interpretation 00–1.*

On April 22, 2008, the PCAOB adopted proposed Ethics and Independence Rule 3526, *Communication with Audit Committees Concerning Independence,* which supersedes ISB No. 1, ISB Interpretation 00–1 and ISB Interpretation 00–2, and a proposed amendment to Rule 3523, Tax Services for Persons in Financial Reporting Oversight Roles, so that it will no longer apply to the provision of tax services to persons in financial reporting oversight roles during the portion of the audit period that precedes the professional engagement period.

Proposed Rule 3526, *Communication with Audit Committees Concerning Independence*, is intended to build on the communication requirements in interim standard ISB No. 1 and provide audit committees with information that may be important to its determination about whether to hire a registered public accounting firm as the company's auditor. ISB No. 1 currently provides that, at least annually, an auditor shall: (a) Disclose to the audit committee of the company (or the board of directors if there is no audit committee), in writing, all relationships between the auditor and its related entities and the company and its related entities that in the auditor's professional judgment may reasonably be thought to bear on independence; (b) confirm in the letter that, in its professional judgment, it is independent of the company within the meaning of the ''Securities Acts administered by the'' SEC; and (c) discuss the auditor's independence with the audit committee.

Similar to ISB No. 1, the new rule requires a registered firm on at least an annual basis after becoming the issuer's auditor to make a similar written communication and also affirm to the audit committee of the issuer, in writing, that the firm is independent. The PCAOB adopted this new rule in part because it believed that the accounting firm should discuss with the audit committee before accepting an initial engagement pursuant to the standards of the PCAOB any relationships the accounting firm has with the issuer that may reasonably be thought to bear on its independence. The new rule also includes a new requirement for the firm to document the substance of its discussion with the audit committee.

The PCAOB adopted Ethics and Independence Rules Concerning Independence, Tax Services and Contingent Fees [3] on July 26, 2005.[4] These rules included, among others, Rule 3523, which added to the list of services an audit firm is prohibited from providing its audit clients in order to maintain its independence by prohibiting audit firms from providing any tax service to any person who fills a financial reporting oversight role at an audit client, or an immediate family member of such individual, unless such person is in that role solely because he or she is a member of the board of directors or similar management governing body. The Board adopted certain technical amendments to the rules on November 22, 2005 and adopted an additional amendment, delaying the implementation schedule for Rule 3523,[5] on March 28, 2006.[6]

Rule 3523, as originally adopted, applies to all tax services performed for persons in a financial reporting oversight role during the ''audit and professional engagement period.'' The PCAOB's definition of the term ''audit and professional engagement period'' is consistent with the Commission's independence rules. The ''audit period'' is the period covered by any financial statements being audited or reviewed.[7] The ''professional engagement period'' is the period beginning when the accounting firm either signs the initial engagement letter or begins audit procedures, whichever is earlier, and ends when the audit client or the accounting firm notifies the Commission that the client is no longer that firm's audit client.[8]

Rule 3523 relates to services provided to individuals and not the audit clients. The Board adopted Rule 3523 because ''the provision of tax services by the auditor to the senior management responsible for the audit client's financial reporting creates an unacceptable appearance of the auditor and such senior management having a mutual interest.'' [9] In discussing this concern, however, the Board's release did not explore whether the provision of these tax services during the audit period but before becoming the auditor of record presents the same appearance issues as the auditor's provision of such services while serving as the auditor of record. In addition, while the Board received comment on this rule, commenters did not explicitly address this matter. Since the PCAOB did not solicit comments relating to this matter, it adopted an amendment to the rule delaying the implementation of this part of the rule and issued a concept release to solicit comments to determine whether restrictions during this period unreasonably limit issuers' ability to change audit firms. On December 14, 2006, the Commission issued a notice of the PCAOB's rule amendment for Rule 3523, as it applies to tax services provided during the period subject to the audit but before the professional engagement period, so that the Board could revisit this aspect of the rule.[10]

On April 3, 2007, the Board issued that concept release.[11] The Board also adopted a rule amendment further delaying the implementation of Rule 3523 to apply to tax services provided on or before July 31, 2007 when those services are provided during the audit period and are completed before the professional engagement period begins.

On July 24, 2007, the Board proposed an amendment to Rule 3523 [12] to exclude the portion of the audit period that precedes the beginning of the professional engagement period, as well as a new ethics and independence rule regarding communication with audit committees. Concurrent with issuing the proposed rule and rule amendment, the Board also adopted a rule amendment to further delay the implementation of Rule 3523 to apply to tax services provided on or before April 30, 2008 when those services are provided during the audit period and are completed

[2] The Commission approved the PCAOB's adoption of the interim standards in Release No. 34–47745 (April 25, 2003); 68 FR 23335 (May 1, 2003).

[3] PCAOB Release No. 2005–014.

[4] On August 2, 2005, the PCAOB submitted its proposed rules to the Commission for approval.

[5] PCAOB Release No. 2006–001.

[6] The March 28, 2006 amendment was adopted after the Commission published the proposed rules for comment.

[7] PCAOB Rule 3501(a)(iii)(1).

[8] PCAOB Rule 3501(a)(iii)(2).

[9] PCAOB Release No. 2005–014 .

[10] PCAOB Release No. 2006–006.

[11] PCAOB Release No. 2007–001.

[12] PCAOB Release No. 2007–008.

before the professional engagement period begins.

On April 22, 2008, the Board adopted the amendment to PCAOB Rule 3523 to exclude the portion of the audit period that precedes the beginning of the professional engagement period and a rule amendment to further delay the implementation date for that portion of Rule 3523 until December 31, 2008.

The proposed amendment to PCAOB Rule 3523 provides that the Board will not apply Rule 3523 to tax services when those services are provided during the audit period and are completed before the professional engagement period begins. Rule 3523 continues to apply to tax services provided during the professional engagement period.

Pursuant to the requirements of Section 107(b) of the Act and Section 19(b) of the Securities Exchange Act of 1934 (the ''Exchange Act''), the Commission published the PCAOB's proposed Ethics and Independence Rule 3526, *Communication with Audit Committees Concerning Independence*, conforming amendments to its interim standard ISB No. 1 and two related interpretations, and amendment to Rule 3523, *Tax Services for Persons in Financial Reporting Oversight Roles* for public comment in the **Federal Register** on July 14, 2008.[13]

III. Discussion

The Commission received two comment letters relating to proposed Rule 3526, both of which were generally supportive of the proposed rule.[14] One of the firms, however, expressed concerns relating to the timing of the required communication of Rule 3526 and its effect on an auditor's participation in the activities associated with an initial public offering. The firm also expressed concerns about the difference between the ''audit and professional engagement period'' referenced in the SEC's independence rules and Rule 3526's requirement to communicate matters that may have existed outside of this time period. The firm requested that the Commission include clarifying commentary in its approval order regarding these matters and urged the PCAOB to issue additional interpretive guidance to aid in the consistent application of the rules.

The PCAOB carefully considered the commenter's concerns before it adopted Rule 3526 and addressed those concerns in its adopting release. We do not believe that any clarifying commentary is necessary at this time. We encourage the PCAOB to carefully monitor the implementation of Rule 3526 and to provide appropriate guidance if it is needed in the future.

The Commission received three comment letters relating to the proposed amendment to Rule 3523. Two of the commenters were supportive of the amendment to Rule 3523.[15] The other commenter[16] expressed concern that Rule 3523 ''put[s] a huge burden on smaller companies and larger tax firms'' because some companies could have large numbers of employees and chances are that some of those employees could be receiving tax services from potential external auditors. While purportedly outside the scope of the proposed amendment, which in fact limits the scope of the rule to a narrower period of just the professional engagement period, it should also be noted that Rule 3523 applies only to persons in a financial reporting oversight role (FROR). This term is defined in PCAOB Rule 3501 as:

> [A] role in which a person is in a position to or does exercise influence over the contents of the financial statements or anyone who prepares them, such as when the person is a member of the board of directors or similar management or governing body, chief executive officer, president, chief financial officer, chief operating officer, general counsel, chief accounting officer, controller, director of internal audit, director of financial reporting, treasurer, or any equivalent position.

Rule 3523 is further limited to exclude persons (i) who are in a FROR only because he or she serves as a member of the board of directors or similar management or governing body of the audit client, (ii) who are in FROR at affiliates if the affiliate's financial statements are immaterial or audited by a different auditor and (iii) who received tax services before being hired or promoted into a FROR if the services are completed on or before 180 days after the hiring or promotion event.

The PCAOB is not proposing to change the persons subject to Rule 3523 in its proposing amendment. The PCAOB gave careful consideration to the issues raised by the commenter prior to Rule 3523's adoption by the Board.

PCAOB Rules 3526 and 3523, including the proposed amendment to Rule 3523 and the conforming amendments to the interim standards, are a reasonable exercise of the Board's rule-making authority under the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the PCAOB's proposed Ethics and Independence Rule 3526, *Communication with Audit Committees Concerning Independence*, conforming amendments to its interim standard ISB No. 1 and two related interpretations, and amendment to Rule 3523, *Tax Services for Persons in Financial Reporting Oversight Roles*, are consistent with the requirements of the Act and the securities laws and are necessary and appropriate in the public interest and for the protection of investors.

It is therefore ordered, pursuant to Section 107 of the Act and Section 19(b)(2) of the Exchange Act, that the proposed rule changes (File No. PCAOB–2008–03) be, and hereby are, approved.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19989 Filed 8–27–08; 8:45 am]

BILLING CODE 8010–01–P

[13] *See* SEC Release No. 34–58121 (Jul. 9, 2008); 73 FR 40418 (Jul. 14, 2008).

[14] Ernst & Young LLP and Deloitte & Touche LLP.

[15] Ernst & Young LLP and Deloitte & Touche LLP.

[16] Matthew L. Garzia, Student, Business Management, Tappan, New York.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58408; File No. SR–BSE–2008–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Appointment of Market Makers on the Boston Options Exchange Facility

August 22, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 19, 2008, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend section 5 (Obligations of Market Makers) of Chapter VI of the Rules of the Boston Options Exchange Group, LLC (''BOX'').

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.bostonstock.com*, from the principal office of the Exchange and from the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 remove certain language from section 5(a)(viii) of Chapter VI of the BOX Rules to eliminate any potential for confusion between this and section 4(f) of Chapter VI of the BOX Rules.

Currently, section 4(f) of Chapter VI states that ''Market Makers may withdraw from trading an options class that is within their appointment by providing the BOX with three business days' written notice of such withdrawal.'' However, Section 5(a)(viii) states that ''[o]rdinarily, Market Makers are expected to * * * [m]aintain active markets in all classes in which the Market Maker is appointed for a period of at least six months.'' To address this potential ambiguity, the Exchange seeks to remove the language ''for a period of at least six months'' from section 5(a)(viii). As a result, a Market Maker seeking to withdraw from a particular appointment will be required to provide BOX with at least three business days written notice of such withdrawal, as stated in section 4(f), regardless of how long the Market Maker has held such appointment.

In addition, the proposed rule change will result in certain changes to the formatting and text of Supplementary Material to Chapter VI, Section 5(c)(ii) of the BOX Rules. The rule change is non-substantive, and it will result in a closer universal format throughout the BOX Rules.

2. Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act,[3] in general, and section 6(b)(5) of the Act,[4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the 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 will create greater clarity within the BOX Rules concerning Market Maker appointments in specific options classes and requests to withdraw from such appointments.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BSE–2008–42 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–BSE–2008–42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2008–42 and should be submitted on or before September 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19945 Filed 8–27–08; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58400; File No. SR–ISE–2008–66]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Retire a Pilot Program To List and Trade Options on the iShares Emerging Markets Index Fund

August 20, 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 August 14, 2008, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has filed the 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

The Exchange submits this rule filing to retire a pilot program that permits the Exchange to list options on the iShares MSCI Emerging Markets Index Fund (''EEM Fund'').[5] The Exchange is proposing to retire the pilot program because the EEM Fund now meets all of the Exchange's generic initial and maintenance listing standards, which permit the Exchange to list options on the EEM Fund without having to file for Commission approval. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.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, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 rule change is to retire the Pilot that permits the Exchange to list options on the EEM Fund.[6] The Exchange is proposing to retire the Pilot because the EEM Fund now meets all of the Exchange's generic initial and maintenance standards. Specifically, the Exchange has in place initial and maintenance listing standards set forth in Rules 502(h) and 503(h), respectively (''Listing Standards''), which are designed to allow the Exchange to list funds structured as investment companies, such as the EEM Fund, without having to file for Commission approval to list for trading options on these types of funds.[7]

When the Exchange first sought to list options on the EEM Fund, the Exchange had determined that the EEM Fund met substantially all of the Exchange's Listing Standards requirements, but did not meet the Listing Standards requirement that no more than 50% of the weight of the securities in the EEM Fund be comprised of securities that are not subject to a comprehensive surveillance sharing agreement (''CSSA'').[8] The Exchange had in place CSSAs with foreign exchanges that covered 45.97% of the securities in the EEM Fund. In order to meet the 50% threshold, the Exchange requested the Commission's approval to rely upon a memorandum of understanding that the Commission had entered into with the CNBV[9] (the ''MOU'') because the securities traded on the Bolsa represented 6.53% of the weight of the securities in the EEM Fund.[10]

The EEM Fund has now become compliant with ISE Rule 502(h)(B)(1) and more than 50% of the weight of the securities in the EEM Fund are now subject to a CSSA. Specifically, the Exchange represents that the Korean Exchange (''KRX'')[11] recently became a member of the Intermarket Surveillance Group and, therefore, securities and other products trading on its markets are now subject to a CSSA. As a result, the percentage of the weight of the EEM Fund represented by South Korean securities now renders the EEM Fund compliant with the Exchange's Listing Standards requirements.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Act of 1934 (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.[12] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's[13] 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 enable the Exchange to continue to provide a competitive marketplace for investors to trade options on the EEM Fund.

[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] The EEM Fund pilot program commenced on August 27, 2007, and has been renewed one time. The EEM Fund pilot program is scheduled to expire on August 27, 2008. *See* Securities Exchange Act Release No. 56324 (August 27, 2007), 72 FR 50426 (August 31, 2007) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Options on the iShares Emerging Markets Index Fund for a Six Month Pilot Program) (SR–ISE–2007–72); *See* Securities Exchange Act Release No. 57399 (February 28, 2008), 73 FR 12241 (March 6, 2008) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program To List and Trade Options on the iShares Emerging Markets Index Fund) (SR–ISE–2008–10).

[6] The EEM Fund is an open-end investment company designed to hold a portfolio of securities that track the MSCI Emerging Markets Index (the ''Index''). The Index is a capitalization-weighted index created and maintained by Morgan Stanley Capital International, Inc., and is designed to measure equity market performance in the global emerging markets.

[7] ISE Rules 502(h) and 503(h) set forth the initial listing and maintenance standards for registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts, or other similar entities that are traded on a national securities exchange or through the facilities of a national securities exchange.

[8] *See* Rule 502(h)(B)(1).

[9] The National Commission for Banking and Securities, or ''CNBV,'' is Mexico's regulatory body for financial markets and banking. The CNBV regulates the Bolsa Mexicana de Valores (''Bolsa'').

[10] *See* supra note 5. The Commission permitted the Exchange to rely on the MOU, and the Exchange agreed to use its best efforts to obtain a CSSA with the Bolsa during the respective pilot periods, which to date has not been obtained.

[11] The KRX was created on January 27, 2005, through the consolidation of three domestic Korean exchanges: Korea Stock Exchange (KSE), KOSDAQ Market and Korea Futures Market (KOFEX). *See http://neg.krx.co.kr/index.html.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

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 this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange provided the Commission with written notice of its intention to file the proposed rule change at least five business days before its filing. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) under the Act normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) under the Act [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 30-day operative delay, which would make the rule change effective and operative upon filing. The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to continue to list options on the EEM Fund. For this reason, the Commission designates that the proposed rule change has become effective and operative immediately.[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 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–2008–66 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–ISE–2008–66. 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–ISE–2008–66 and should be submitted on or before September 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19943 Filed 8–27–08; 8:45 am]

BILLING CODE 8010–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[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] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Release No. 34–58411; File No. SR–ISE–2008–65]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

August 22, 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 August 12, 2008, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 is proposing to amend its Schedule of Fees to establish fees for transactions in options on 12 Premium Products.[3] The text of the proposed rule change is available at the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Premium Product is defined in the Schedule of Fees as the products enumerated therein.

of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*—The Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the iShares DJ U.S. Financial Sector Index Fund (''IYF''),[4] the Market Vectors Coal ETF (''KOL''),[5] the SPDR KBW Regional Banking ETF (''KRE''),[6] the Ultra Oil & Gas ProShares Trust (''DIG''), the UltraShort Real Estate ProShares Trust (''SRS''), the UltraShort Basic Materials ProShares Trust (''SMN''),[7] the Vanguard® Materials ETF (''VAW''), the Vanguard® REIT ETF (''VNQ''), the Vanguard® Growth ETF (''VUG''), the Vanguard® Europe Pacific ETF (''VEA''), the Vanguard® Emerging Markets ETF (''VWO'') [8] and the Regional Bank HOLDRs Trust (''RKH'').[9] The Exchange represents that IYF, KOL, KRE, DIG, SRS, SMN, VAW, VNQ, VUG, VEA, VWO and RKH are eligible for options trading because they constitute ''Exchange-Traded Fund Share,'' [sic] as defined by ISE Rule 502(h).

All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee for all transactions in options on IYF, KOL, KRE, DIG, SRS, SMN, VAW, VNQ, VUG, VEA, VWO and RKH.[10] The amount of the execution fee for products covered by this filing shall be $0.18 per contract for all Public Customer Orders [11] and Firm Proprietary orders. The amount of the execution fee for all ISE Market Maker transactions shall be equal to the execution fee currently charged by the Exchange for ISE Market Maker transactions in equity options.[12] Finally, the amount of the execution fee for all non-ISE Market Maker transactions shall be $0.45 per contract.[13] Further, since options on IYF, KOL, KRE, DIG, SRS, SMN, VAW, VNQ, VUG, VEA, VWO and RKH are multiply-listed, the Exchange's Payment for Order Flow fee shall apply to all these products. The

[4] iShares® is a registered trademark of Barclays Global Investors, N.A. (''BGI''), a wholly owned subsidiary of Barclays Bank PLC. ''Dow Jones'' and ''Dow Jones U.S. Financial Sector Index Fund'' are service marks of Dow Jones & Company, Inc. (''Dow Jones'') and have been licensed for use for certain purposes by BGI. All other trademarks and service marks are the property of their respective owners. The Dow Jones U.S. Financial Sector Index Fund (''IYF'') is not sponsored, endorsed, issued, sold or promoted by Dow Jones. BGI and Dow Jones have not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on IYF or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on IYF or with making disclosures concerning options on IYF under any applicable federal or state laws, rules or regulations. BGI and Dow Jones do not sponsor, endorse, or promote such activity by ISE, and are not affiliated in any manner with ISE.

[5] The Market Vectors Coal ETF (''KOL'') is distributed by Van Eck Securities Corporation (''VESC'') and tracks the Stowe Coal Index℠, which is published by Stowe Global Indexes LLC (''Stowe''). VESC has entered into a licensing agreement with Stowe to use the Stowe Coal Index in connection with KOL. Van Eck Associates Corporation (''VEAC'') is the investment adviser to KOL. Stowe's only relationship with VEAC is the licensing of certain service marks and trade names of Stowe and of the Stowe Coal Index. Stowe does not sponsor, endorse, or promote KOL and makes no representation regarding the advisability of investing in KOL. Neither VESC nor VEAC has licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on KOL or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on KOL or with making disclosures concerning options on KOL under any applicable federal or state laws, rules or regulations. Neither VESC nor VEAC sponsors, endorses, or promotes such activity by ISE, and are not affiliated in any manner with ISE.

[6] ''SPDR®'' is a trademark of the The McGraw-Hill Companies, Inc (''McGraw-Hill''). The ''KBW Regional Bank Index℠'' and ''Keefe, Bruyette & Woods℠'' are service marks and the property of Keefe, Bruyette & Woods, Inc. (''KBW''). KBW's only relationship to State Street Bank and Trust Company is the licensing of certain trademarks and tradenames of KBW and the KBW Regional Banking Index in connection with the listing and trading of the KBW Regional Banking ETF (''KRE'') on the American Stock Exchange. KRE is not sponsored, sold or endorsed by KBW or McGraw-Hill and neither KBW nor McGraw-Hill makes any representation regarding the advisability of investing in KRE. Neither KBW nor McGraw-Hill has licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on KRE or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on KRE or with making disclosures concerning options on KRE under any applicable federal or state laws, rules or regulations. Neither KBW nor McGraw-Hill sponsors, endorses, or promotes such activity by ISE and are not affiliated in any manner with ISE.

[7] ''Dow Jones'', ''Dow Jones U.S. Oil & Gas℠'', ''Dow Jones U.S. Basic Materials℠'', and ''Dow Jones U.S. Real Estate℠'' are service marks of Dow Jones & Company, Inc. (''Dow Jones'') and have been licensed for use for certain purposes by ProFunds Trust. All other trademarks and service marks are the property of their respective owners. The Ultra Oil & Gas ProShares (''DIG''), the UltraShort Real Estate ProShares (''SRS''), and the UltraShort Basic Materials ProShares (''SMN'') are not sponsored, endorsed, issued, sold or promoted by Dow Jones. Dow Jones has not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on DIG, SRS and SMN or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on DIG, SRS and SMN or with making disclosures concerning options on DIG, SRS and SMN under any applicable federal or state laws, rules or regulations. Dow Jones does not sponsor, endorse, or promote such activity by ISE and is not affiliated in any manner with ISE.

[8] Vanguard, Vanguard ETFs and Vanguard ETF are trademarks of The Vanguard Group, Inc. (''Vanguard''). All other marks are the exclusive property of their respective owners. The Vanguard® Materials ETF (''VAW'') tracks the Morgan Stanley Capital International® (MSCI®) U.S. Investable Market Materials Index. The Vanguard® REIT ETF (''VNQ'') tracks the MSCI U.S. REIT Index. The Vanguard® Growth ETF (''VUG'') tracks the MSCI U.S. Prime Market Growth Index. The Vanguard® Europe Pacific ETF (''VEA'') tracks the MSCI Europe, Australasia, Far East Index. The Vanguard® Emerging Markets ETF (''VWO'') tracks the MSCI Emerging Markets Index. MSCI does not sponsor, endorse, or promote VAW, VNQ, VUG, VEA and VWO and makes no representation regarding the advisability of investing in VAW, VNQ, VUG, VEA and VWO. Vanguard has not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on VAW, VNQ, VUG, VEA and VWO or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on VAW, VNQ, VUG, VEA and VWO or with making disclosures concerning options on VAW, VNQ, VUG, VEA and VWO under any applicable federal or state laws, rules or regulations. Vanguard does not sponsor, endorse, or promote such activity by ISE, and is not affiliated in any manner with ISE.

[9] The Regional Bank HOLDRS℠ Trust (''RKH'') issues Depositary Receipts called Regional bank HOLDRS℠ representing undivided beneficial ownership in the U.S.-traded common stock of a group of specified companies that, among other things, are involved in various segments of the regional banking industry. ''HOLDRS'' and ''HOLding Company Depositary ReceiptS'' are service marks of Merrill Lynch & Co., Inc. (''Merrill Lynch''). All other trademarks and service marks are the property of their respective owners. Merrill Lynch has not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on RKH or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on RKH or with making disclosures concerning options on RKH under any applicable federal or state laws, rules or regulations. Merrill Lynch does not sponsor, endorse, or promote such activity by ISE, and is not affiliated in any manner with ISE.

[10] These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2009, these fees will also be charged to Linkage Principal Orders (''Linkage P Orders'') and Linkage Principal Acting as Agent Orders (''Linkage P/A Orders''). The amount of the execution fee charged by the Exchange for Linkage P Orders and Linkage P/A Orders is $0.24 per contract side and $0.15 per contract side, respectively. See Securities Exchange Act Release No. 58143 (July 11, 2008), 73 FR 41388 (July 18, 2008) (SR–ISE–2008–52).

[11] Public Customer Order is defined in Exchange Rule 100(a)(39) as an order for the account of a Public Customer. Public Customer is defined in Exchange Rule 100(a)(38) as a person or entity that is not a broker or dealer in securities.

[12] The Exchange applies a sliding scale, between $0.01 and $0.18 per contract side, based on the number of contracts an ISE market maker trades in a month.

[13] The amount of the execution fee for non-ISE Market Maker transactions executed in the Exchange's Facilitation and Solicitation Mechanisms is $0.19 per contract.

Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

(b) *Basis*—The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act,[14] in general, and furthers the objectives of section 6(b)(4),[15] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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 this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act [16] and Rule 19b–4(f)(2) [17] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for 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–2008–65 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–2008–65. 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 will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–65 and should be submitted on or before September 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19985 Filed 8–27–08; 8:45 am]

BILLING CODE 8010–01–P

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 19b–4(f)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58406; File No. SR–MSRB–2008–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Revisions to the Series 51 Examination Program

August 21, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 18, 2008, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the MSRB. The MSRB has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization pursuant to Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) 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 MSRB is filing with the Commission revisions to the study outline and selection specifications for the Municipal Fund Securities Limited Principal Qualification Examination (Series 51) program.[5] The proposed revisions consolidate certain job responsibilities (such as the recordkeeping functions) and regroup others in order to allow more detailed testing of particular rule requirements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] The MSRB is also proposing corresponding revisions to the Series 51 question bank, but based upon instructions from the Commission staff, the MSRB is submitting SR–MSRB–2008–06 for immediate effectiveness pursuant to Section 19(b)(3)(A)(i) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank for Commission review. See letter to Diane G. Klinke, General Counsel, MSRB, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for Commission review.

The MSRB is not proposing any textual changes to its rules.

The revised study outline is available on the MSRB's Web site (*http://www.msrb.org*), at the MSRB'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 MSRB 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 MSRB 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

Section 15B(b)(2)(A) of the Act[6] authorizes the MSRB to prescribe standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors. The MSRB has developed examinations that are designed to establish that persons associated with brokers, dealers and municipal securities dealers that effect transactions in municipal securities have attained specified levels of competence and knowledge. The MSRB periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

MSRB Rule G–3(b)(iv) states that the municipal fund securities limited principal has responsibility to oversee the municipal securities activities of a securities firm or bank dealer solely as such activities relate to transactions in municipal fund securities. In this capacity, the municipal fund securities limited principal manages, directs or supervises one or more of the following activities relating to municipal fund securities: underwriting, trading or selling municipal fund securities; rendering financial advisory or consultant services to issuers of municipal fund securities; research or investment advice, or communications with customers, about any of the activities named heretofore; maintaining records on activities in municipal fund securities; processing, clearing, and (in the case of securities firms) safekeeping of municipal fund securities; and training of principals and representatives.[7] The only examination that qualifies a municipal fund securities limited principal is the Municipal Fund Securities Limited Principal Qualification Examination.

A committee of industry members and MSRB staff (the Series 51 Committee) recently undertook a review of the Series 51 examination program. As a result of this review, the MSRB is proposing to make revisions to the study outline to consolidate certain job responsibilities (such as the recordkeeping functions) and regroup others in order to allow more detailed testing of particular rule requirements. In addition, the detail on some existing topics is being expanded to include specific cites to rules that had been amended since the last update of the outline. The revised examination continues to cover areas of knowledge required for effective supervision of municipal fund securities activities. A summary of the changes to the content outline for the Series 51 Examination, detailed by major topic heading, is provided below.

Part Three—General Supervision

- The topic ''Restrictions on apprentices'' was moved to this major heading from the major heading Sales Supervision (Part Five) to be grouped with the qualification requirements for apprentices.
- A reference to ''Supervisory Controls'' under Rule G–27 was added.
- Technical changes to rule citations were made to reflect amendments to Rule G–27.

Part Five—Sales Supervision

- Reference to ''Restrictions on apprentices'' was moved to Part Three to be grouped with the qualification requirements for apprentices.
- Technical changes to rule citations were made to reflect amendments to Rule G–27.
- ''Records of agency transactions'' was moved to Part Seven to be grouped with similar requirements for the maintenance of books and records.
- The topic ''Books and records maintained by transfer agents'' was moved to Part Seven to be grouped with similar requirements for the maintenance of books and records.

Part Six—Underwriting and Disclosure Obligations

- The sub-heading ''Obligations of Municipal Underwriters under SEC Rules'' was changed to ''Obligations of Municipal Underwriters'' in order to include relevant MSRB rules under the sub-heading.

Part Seven—Operations

- The topic ''Records of agency transactions'' was moved under this major heading from Part Five to be grouped with similar requirements for the maintenance of books and records.
- The topic ''Books and records maintained by transfer agents'' was moved under this major heading from Part Five to be grouped with similar topics on the maintenance of books and records.

The MSRB is proposing similar changes to the Series 51 selection specifications and question bank. The examination will continue to consist of 60 multiple choice-questions assigned to the seven areas of the examination as shown below. The percentages given for each section are rounded to an even number.

	Percent
Regulatory Structure	5
Product Knowledge	27
General Supervision	17
Fair Practice and Conflicts of Interest	17
Sales Supervision	18
Underwriting and Disclosure Obligations	6
Operations	10

Candidates will continue to be allowed one and one-half hours for each testing session. Each question will continue to count one point, and each candidate must correctly answer 70 percent of the questions in order to receive a passing grade.

A candidate for the Series 51 must also pass the General Securities Principal Examination (Series 24) or the Investment Company Products/Variable Contracts Limited Principal Examination (Series 26). The Series 51 Committee considered subject matter that would be covered in either of these examinations when developing the specifications for the Series 51 Examination.

2. Statutory Basis

The MSRB believes that the proposed revisions to the Series 51 examination program are consistent with the provisions of Section 15B(b)(2)(A) of the

[6] 15 U.S.C. 78o–4(b)(2)(A).

[7] A municipal securities principal (Series 53) is also qualified to supervise these responsibilities.

Act,[8] which authorizes the MSRB to prescribe standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors. Section 15B(b)(2)(A) of the Act also provides that the Board may appropriately classify municipal securities brokers and municipal securities dealers and their associated personnel and require persons in any such class to pass tests prescribed by the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB 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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[9] and Rule 19b–4(f)(1) thereunder,[10] in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. The MSRB proposes to implement the revised Series 51 examination program on November 1, 2008. 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]

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–MSRB–2008–06 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–MSRB–2008–06. 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 am and 3 pm. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2008–06 and should be submitted on or before September 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19944 Filed 8–27–08; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78o–4(b)(2)(A).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Love Field Airport, Dallas, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Love Field Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before September 29, 2008.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Mike Nicely, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Texas Airports Development Office, ASW–650, Fort Worth, Texas 76193–0650.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dan Weber, Director of Aviation, at the following address: Dallas Love Field, Department of Aviation, 8008 Cedar Springs, LB 16, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney Clark, Program Manager, Federal Aviation Administration, Texas Airports Development Office, ASW–650, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0650, Telephone: (817) 222–5659, e-mail: *Rodney.Clark@faa.gov,* fax: (817) 222–5989.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Love Field Airport under the provisions of the AIR 21.

On August 6, 2008, the FAA determined that the request to release property at Love Field Airport, submitted by the City, met the procedural requirements of the Federal Aviation Regulations, Part 155. The FAA may approve the request, in whole or in part, no later than October 6, 2008.

The following is a brief overview of the request:

The City of Dallas requests the release of 2.58 acres of non-aeronautical airport property. The land was acquired by the City of Dallas for use as an airport. The

funds generated by the release will be used for upgrading, maintenance, operation and development of the airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents in person at the Love Field Airport, telephone number (214) 670–6073.

Issued in Fort Worth, Texas, on August 6, 2008.

Kelvin L. Solco,

Manager, Airports Division.

[FR Doc. E8–19897 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting, RTCA/PMC New Special Committee 219: Attitude and Heading Reference Systems (AHRS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 219 meeting: Attitude and Heading Reference.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 219 meeting: Attitude and Heading Reference Systems (AHRS).

DATES: The meeting will be held on September 16–17, 2007, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at 1828 L Street, NW., Suite 805, MacIntosh NBAA and Hilton-ATA Rooms, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036–5 133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix 2), notice is hereby given for a Special Committee 219 meeting. The agenda will include:

- September 16–17:
- Opening Session (Welcome, Introductions and Administrative Remarks).
- Agenda Overview.
- RCTA Functional Overview.
- Review Current Guidance/ Technical Standard Orders—Discussion.
- Committee Scope—Terms of Reference.
- Organization of Work, Assign Tasks and Workgroups. Presentation, Discussion, Recommendations, Assignment of Responsibilities.
- Establish Dates, Location and Agenda for Next Meeting.
- Closing Session (Any Other Business, Assignment/Review of Future Work, Establish Agenda, Date and Place of Next Meeting, Closing Remarks, Adjourn). Attendance is open to the interested public but limited by space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 22, 2008.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. E8–19896 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Utah

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 39(*l*)(1). The actions relate to a proposed highway project, I–15 Corridor, from the South Payson Interchange in Utah County, to the 12300 South Interchange in Salt Lake County, State of Utah. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions that are covered by this notice will be barred unless the claim is filed on or before February 24, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Carlos C. Machado, MBA, Major Project Manager, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118–1880; Telephone: (801) 963–0078 ext. 231; e-mail: *carlos.machado@fhwa.dot.gov.* The FHWA Utah Division Office's normal business hours are 7:30 a.m. to 4:30 p.m. (Mountain Time). For the Utah Department of Transportation (UDOT): Mr. Merrell Jolley, P.E., 658 North 1500 West, Orem, Utah 84057; Telephone: (801) 222–3406; e-mail: *merrelljolley@utah.gov.* The UDOT's normal business hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. (M. Time).

SUPPLEMENTARY INFORMATION: On Friday, June 27, 2008, the FHWA published a ''Notice of Final Federal Agency Actions on Proposed Highway in Utah'' in the **Federal Register** at Volume 73, No. 125, page 36503, for the following highway project in the State of Utah: I–15 from the South Payson Interchange in Utah County, to the 12300 South Interchange in Salt Lake County, a total of 43 miles. The project includes widening the I–15 mainline, and reconstruction or improvement at all interchanges. It also includes a new interchange at North Lehi. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on June 9, 2008, in the FHWA Record of Decision (ROD) issued on August 15, 2008, and in other documents in the FHWA project files. The FEIS, ROD, and other project records are available by contacting the FHWA or the UDOT at the addresses provided above. The FHWA FEIS and ROD can be viewed and downloaded from the project Web site at *http://www.udot.utah.gov/i15core/* or viewed at public libraries in the project area.

This notice applies to all Federal agencies' final actions taken after the issuance date of the FHWA **Federal Register** notice described above. The laws under which actions were taken include, but are not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation [23 U.S.C. 103(b)(6)(M) and 133(b)(11)]; Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

8. Executive Orders: E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13287, Preserve America; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 11514, Protection and Enhancement of Environmental Quality; E.O. 13112, Invasive Species.

(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.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: August 22, 2008.

Walter C. Waidelich, Jr.,

Division Administrator, Salt Lake City.

[FR Doc. E8–19970 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Federal Agency Actions on Proposed Highway in Washington, DC

AGENCIES: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, 11th Street Bridges, Anacostia Freeway (I–295/DC 295) to Southeast/Southwest Freeway (I–695), and Washington, DC. Those actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions that are covered by this notice will be barred unless the claim is filed on or before February 24, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Kehrli, Division Administrator, Federal Highway Administration, 1990 K Street, NW., Suite 510, Washington, DC 20006–1103; telephone: (202) 219–3536; e-mail: *Mark.Kehrli@fhwa.dot.gov*. The FHWA District of Columbia Division Office normal business hours are 8 a.m. to 4:30 p.m. (Eastern Time). You may also contact Mr. Barton Clark, Program Manager, Anacostia Waterfront Initiative, District Department of Transportation, 64 New York Avenue, NE., Washington, DC 20002; telephone: (202) 671–4696; e-mail: *Barton.Clark@dc.gov*. The District Department of Transportation normal business hours are 8:15 a.m. to 4:45 p.m.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final action by issuing a Record of Decision for the following highway project in the District of Columbia: The project, approximately one mile in length, will reconstruct and reconfigure the Interchange connecting the Southeast/Southwest Freeway and the Anacostia Freeway over the Anacostia River. New ramps east of the Anacostia River would link the Anacostia Freeway to the east ends of the 11th Street Bridges providing a link to the Freeway that had previously been missing. A bridge dedicated to local traffic would be separated from the bridge carrying Freeway traffic. The freeway bridge would carry eight lanes of traffic while the local bridge would carry four lanes with the potential that two of those lanes be designed for future streetcar use. The project will maintain the existing alignment. The Federal-aid project number is: IM–295–2 (181). The Notice of Intent (NOI) was issued in September 2005; the Draft Environmental Impact Statement (DEIS) was issued in July 2006; the Final Environmental Impact Statement (FEIS) was issued in November 2007; and the Record of Decision (ROD) was issued in July 2008. Information about the project also is available from the FHWA and the District Department of Transportation at the addresses provided above. The DEIS, FEIS, ROD and other documents can be viewed and downloaded from the project Web site at: *http://www.11thstreetbridgeseis.com/reports.asp?DocGroupID=10033*.

This notice applies to other Federal agency final actions taken after the issuance date of the FHWA **Federal Register** notice described above. The laws under which actions were taken include, but are not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), FHWA Code of Federal Regulations (23 CFR 771.101–771.137, et seq.)

3. Air: Clean Air Act, 42 U.S.C. 7401–7671(q).

4. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

5. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

7. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

8. Wetlands and Water Resources: Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j); TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m); Land

and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604.

9. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675.

10. Executive Orders: E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 11514, Protection and Enhancement of Environmental Quality.

(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.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: August 25, 2008.

Mark R. Kehrli,

Division Administrator, District of Columbia.

[FR Doc. E8–19986 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–103043–05]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–103043–05, Material Advisor of Reportable Transaction Must Keep List of Advisees, etc. (previously REG–103736–00, Requirement to Maintain List of Investors in Potentially Abusive Tax Shelters).

DATES: Written comments should be received on or before October 27, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Material Advisor of Reportable Transaction Must Keep List of Advisees, etc.

OMB Number: 1545–1686.

Regulation Project Number: REG–103043–05.

Abstract: These final regulations provide guidance on the requirement under section 6112 to maintain a list of investors in potentially abusive tax shelters. As per Regulations section 301.6112–1(b)(1), Form 13976 (Itemized Statement Component of Advisee List) provides material advisors a format for preparing and maintaining the itemized statement component of the list with respect to a reportable transaction. This form contains space for all of the elements required by Regulations section 301.6112–1(b)(3)(i). Material advisors may use this form as a template for creating a similar form on a software program used by the material advisor. If a material advisor is required to maintain a list under a prior version of the regulations, this form may be modified or a similar form containing all the information required under the prior version of the regulations may be created and used.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 100 hours.

Estimated Total Annual Burden Hours: 50,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 21, 2008.

Allan M. Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E8–19913 Filed 8–27–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Consumer Complaint Form

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before September 29, 2008. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725—17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's

Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at *ira.mills@ots.treas.gov* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Consumer Complaint Form.

OMB Number: 1550–0NEW.

Form Number: 1723.

Description: The OTS Consumer Complaint form provides a model for the public to provide information to OTS to assist with the investigation of their complaint. The data collected via the form or letter is critical to investigating a complaint and will be used to create a record of the consumer's contact and will be entered into a database of information that can be incorporated into the OTS's supervisory process.

Type of Review: New Collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,180.

Estimated Number of Responses: 1,180.

Estimated Burden Hours per Response: 15 minutes.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 295 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: August 22, 2008.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E8–19958 Filed 8–27–08; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Determination of Presumption of Service Connection Concerning Illnesses Discussed in National Academy of Sciences Report on Gulf War and Health

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law, the Department of Veterans Affairs (VA) hereby gives notice that the Secretary of Veterans Affairs, under the authority granted by the Persian Gulf War Veterans Act of 1998, Public Law 105–277, title XVI, 112 Stat. 2681–742 through 2681–749 (codified in part at 38 U.S.C. 1118), has determined that there is no basis to establish a presumption of service connection at this time for any of the diseases, illnesses, or health effects discussed in the December 20, 2004, report of the National Academy of Science, titled ''Gulf War and Health, Volume 3. Fuels, Combustion Products, and Propellants'' based on exposure to fuels, combustion products, or propellants during service in the Persian Gulf during the Persian Gulf War. This determination does not in any way preclude VA from granting service connection for any disease, including those specifically discussed in this notice, nor does it change any existing rights or procedures.

FOR FURTHER INFORMATION CONTACT: Rhonda F. Ford, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9739.

SUPPLEMENTARY INFORMATION:

I. Statutory Requirements

The Persian Gulf War Veterans Act of 1998, Public Law 105–277, title XVI, 112 Stat. 2681–742 through 2681–749 (codified at 38 U.S.C. 1118), and the Veterans Programs Enhancement Act of 1998, Public Law 105–368, 112 Stat. 3315, directed the Secretary to seek to enter into an agreement with the National Academy of Sciences (NAS) to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which service members may have been exposed during service in the Persian Gulf during the Gulf War. Congress directed NAS to identify agents, hazards, medicines, and vaccines to which service members may have been exposed during service in the Persian Gulf during the Gulf War.

Congress mandated that NAS determine, to the extent possible: (1) Whether there is a statistical association between exposure to the agent, hazard, medicine, or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association; (2) the increased risk of illness among individuals exposed to the agent, hazard, medicine, or vaccine; and (3) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, medicine, or vaccine and the illness.

Section 1118 provides that whenever the Secretary determines, based on sound medical and scientific evidence, that a positive association (*i.e.,* the credible evidence for the association is equal to or outweighs the credible evidence against the association) exists between exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War and the occurrence of a diagnosed or undiagnosed illness in humans or animals, the Secretary will publish regulations establishing presumptive service connection for that illness. If the Secretary determines that a presumption of service connection is not warranted, the Secretary is to publish a notice of that determination, including an explanation of the scientific basis for that determination. The Secretary's determination must be based on consideration of the NAS reports and all other sound medical and scientific information and analysis available to the Secretary.

Although section 1118 does not define ''credible evidence,'' it does instruct the Secretary to take into consideration whether the results (of any report, information, or analysis) are statistically significant, are capable or replication, and withstand peer review. See 38 U.S.C. 1118(b)(2)B). Simply comparing the number of studies that report a significantly increased relative risk to the number of studies that report a relative risk that is not significantly increased is not a valid method for

determining whether the weight of evidence overall supports a finding that there is or is not a positive association between exposure to an agent, hazard, or medicine or vaccine and the subsequent development of the particular illness. Because of differences in statistical significance, confidence levels, control for confounding factors, and other pertinent characteristics, some studies are clearly more credible than others, and the Secretary has given the more credible studies more weight in evaluating the overall weight of the evidence concerning specific illnesses.

II. Prior National Academy of Sciences Reports

NAS issued its initial report titled, Gulf War and Health, Volume 1: ''Depleted Uranium, Sarin, Pyridostigmine Bromide, Vaccines,'' on January 1, 2000. In that report, NAS limited its analysis to the health effects of depleted uranium, the chemical warfare agent sarin, vaccinations against botulism toxin and anthrax, and pyridostigmine bromide, which was used in the Gulf War as a pretreatment for possible exposure to nerve agents. On July 6, 2001, VA published a notice in the **Federal Register** announcing the Secretary's determination that the available evidence did not warrant a presumption of service connection for any disease discussed in that report. See 66 FR 35702 (2001).

NAS issued its second report titled, ''Gulf War and Health, Volume 2: Insecticides and Solvents,'' on February 18, 2003. In that report, NAS focused on the health effects of insecticides and solvents that were shipped to the Persian Gulf during the Persian Gulf War. The pesticides considered by NAS were organophosphorous compounds (malathion, diazinon, chlorpyrifos, dichlorvos, and azamethiphos), carbamates (carbaryl, propoxur, and methomyl), pyrethrins and pyrethyroids (permethrin and d-phenothrin), lindane, and N,N-diethyl-3-methylbenzamide (DEET). NAS considered 53 solvents in eight groups: Aromatic hydrocarbons (including benzene), halogenated hydrocarbons (including tetrachloroethylene and dry-cleaning solvents), alcohols, glycols, glycol esters, esters, ketones, and petroleum distillates. On August 24, 2007, VA published a notice in the **Federal Register** announcing the Secretary's determination that the available evidence did not warrant a presumption of service connection for any disease discussed in that report. 72 FR 48734 (2007).

III. Gulf War and Health, Volume 3. Fuels, Combustion Products, and Propellants

NAS issued a third report, titled ''Gulf War and Health, Volume 3. Fuels, Combustion Products, and Propellants,'' on December 20, 2004. In that report, NAS focused on the health effects of hydrazines, red fuming nitric acid, hydrogen sulfide, oil-fire byproducts, diesel-heater fumes, and fuels (for example, jet fuel and gasoline).

In its report, NAS classified the evidence of an association between exposure to a specific agent and a specific health outcome into five categories:

- *Sufficient Evidence of a Causal Association:* This category means the evidence is sufficient to conclude that there is a causal association between exposure to a specific agent and a specific health outcome in humans. The evidence is supported by experimental data and fulfills the guidelines for sufficient evidence of an association. The evidence must be biologically plausible and satisfy several of the guidelines used to assess causality, such as: Strength of association, dose-response relationship, consistency of association, and a temporal relationship.

NAS did not find any health outcomes that met the criteria for this category.

- *Sufficient Evidence of an Association:* This category means the evidence is sufficient to conclude that a consistent association has been observed between exposure to a specific agent and a specific health outcome in human studies in which chance and bias, including confounding, could be ruled out with reasonable confidence. For example, several high-quality studies report consistent associations, and the studies are sufficiently free of bias, including adequate control for confounding.

NAS found sufficient evidence of an association between exposure to combustion products and lung cancer.

- *Limited/Suggestive Evidence of an Association:* This category means the evidence is suggestive of an association between exposure to a specific agent and a specific health outcome, but the body of evidence is limited by the inability to rule out chance and bias, including confounding, with confidence. For example, at least one high-quality study reports an association that is sufficiently free of bias, including adequate control for confounding. Other corroborating studies provide support for the association, but they were not sufficiently free of bias, including confounding. Alternatively, several studies of lower quality show consistent associations, and the results are probably not due to bias, including confounding.

NAS found limited/suggestive evidence of an association between exposure to combustion products and cancers of the nasal cavity and nasopharynx; cancers of the oral cavity and oropharynx; laryngeal cancer; bladder cancer; low birthweight/intrauterine growth retardation (with exposure during pregnancy); preterm birth (with exposure during pregnancy); and incident asthma.

NAS found limited/suggestive evidence of an association between exposure to hydrazines and lung cancer.

- *Inadequate/Insufficient Evidence:* This category means the evidence is of insufficient quantity, quality, or consistency to permit a conclusion regarding the existence of an association between exposure to a specific agent and a specific health outcome in humans.

NAS found inadequate/insufficient evidence of an association between exposure to fuels and cancers of the oral cavity and oropharynx; cancers of the nasal cavity and nasopharynx; esophageal cancer; stomach cancer; colon cancer; rectal cancer; hepatic cancer; pancreatic cancer; laryngeal cancer; lung cancer; melanoma; nonmelanoma skin cancer; female breast cancer; male breast cancer; female genital cancers (cervical, endometrial, uterine, and ovarian cancers); prostatic cancer; testicular cancer; nervous system cancers; kidney cancer; bladder cancer; Hodgkin's disease; non-Hodgkin's lymphoma; multiple myeloma; myelodysplastic syndromes; adverse reproductive or developmental outcomes (including infertility, spontaneous abortion, childhood leukemia, central nervous system (CNS) tumors, neuroblastoma, and Prader-Willi syndrome); peripheral neuropathy; neurobehavioral effects; Multiple Chemical Sensitivity symptoms; nonmalignant respiratory disease; chronic bronchitis; asthma; emphysema; dermatitis (irritant and allergic); and sarcoidosis.

NAS found inadequate/insufficient evidence of an association between exposure to combustion products and esophageal cancer; stomach cancer; colon cancer; rectal cancer; hepatic cancer; pancreatic cancer; melanoma; female breast cancer; male breast cancer; female genital cancers (cervical, endometrial, uterine, and ovarian cancers); prostatic cancer; testicular cancer; nervous system cancers; ocular melanoma; kidney cancer; non-

Hodgkin's lymphoma; Hodgkin's disease; multiple myeloma, leukemia; myelodysplastic syndromes; preterm births (based on exposure during a specific time period during pregnancy, such as the first trimester); low birth weight and intrauterine growth retardation (based on exposure before gestation or during a specific period during pregnancy, such as the first trimester); specific birth defects, including cardiac effects (with maternal or paternal exposure before conception or maternal exposure during early pregnancy); all childhood cancers identified, including acute lymphocytic leukemia, leukemia, neuroblastoma, and brain cancer; neurobehavioral effects; post-traumatic stress disorder; nervous system subgroupings (or individual nervous system diseases); Multiple Chemical Sensitivity symptoms; chronic bronchitis (less than 1 year of exposure); emphysema; chronic obstructive pulmonary disease; ischemic heart disease or myocardial infarction (less than 2 years of exposure); dermatitis (irritant and allergic); and sarcoidosis.

NAS found inadequate/insufficient evidence of an association between exposure to hydrazines and hematopoietic and lymphopoietic cancers; digestive tract cancers; pancreatic cancer; bladder cancer; kidney cancer; emphysema; ischemic heart disease or myocardial infarction; and hepatic disease.

NAS found inadequate/insufficient evidence of an association between exposure to nitric acid and stomach cancer; melanoma; lymphopoietic cancers; pancreatic cancer; laryngeal cancer; lung cancer; bladder cancer; multiple myeloma; and cardiovascular diseases.

• *Limited/Suggestive Evidence of No Association:* This category means the evidence is consistent in not showing an association between exposure to a specific agent and a specific health outcome after exposure of any magnitude. A conclusion of no association is inevitably limited to the conditions, magnitudes of exposure, and length of observation in the available studies. The possibility of a very small increase in risk after exposure studied cannot be excluded.

NAS did not find any health outcomes that met the criteria for this category.

A. Combustion Products

1. Sufficient Evidence of an Association

NAS found sufficient evidence of an association between combustion products and lung cancer. NAS found that there was evidence of associations between exposure to ambient air pollution, engine exhausts, and heating sources (coal) and lung cancer. Cohort and case-control studies showed consistently that risks increased with increasing ambient air pollution. There was evidence from both cohort and case control studies that increasing exposure to engine exhausts and its components such as polycyclic aromatic hydrocarbons (PAHs) increased the risk of lung cancer.

Based on 82 epidemiological studies, NAS derived a positive finding of ''sufficient evidence of an association'' between exposure to combustion products and lung cancer. The epidemiological studies included cohort studies on the health effects of ambient air pollution on people dwelling in cities, workers exposed to motor vehicle exhaust, and case-control studies of lung cancer patients. The case-control studies were of lung cancer patients who were exposed in their occupation, or in their homes or daily lives to indoor air pollution from combustion products from wood, coal, kerosene or gas burning stoves or heaters over years. Relevant occupational exposures included working as a bus, taxi, or truck driver, or as a miner or railroad worker.

NAS pointed out that lung cancer from all causes is the leading cause of cancer death among both men and women, and that smoking may be responsible for 80% of lung cancer cases. Nevertheless, NAS concluded that ''there was evidence of associations between exposure to ambient air pollution, engine exhausts, and heating sources (coal) and lung cancer.'' Cohort and case-control studies showed consistently that risks increased with increasing ambient air pollution. There was evidence from both cohort and case-control studies that increasing exposure to engine exhausts and to its components increased the risk of lung cancer.

The Secretary has determined that, although there is sufficient evidence of an association between combustion products and lung cancer, VA does not consider this exposure to be ''associated with'' the 1991 Gulf War. Please see section IV for further detail.

2. Limited/Suggestive Evidence of an Association

NAS found limited/suggestive evidence of an association between exposure to combustion products and cancers of the nasal cavity and nasopharynx; cancers of the oral cavity and oropharynx; laryngeal cancer; bladder cancer; low birthweight/intrauterine growth retardation and exposure during pregnancy; preterm birth and exposure during pregnancy; and incident asthma.

The results of the studies of the relationship between combustion products and cancers of the nasal cavity and nasopharynx were inconsistent, and indirect methods were used to assess exposure. However, positive associations were reported between combustion products (particularly wood smoke) and cancer of the nasopharynx.

NAS's positive finding of ''limited/suggestive evidence of an association'' between exposure to combustion products and cancers of the nasal cavity and nasopharynx was based on 4 epidemiological case-control studies. These studies involved patients with nasal cavity and nasopharynx cancer, who were exposed regularly to combustion products, by virtue of their occupation or in their daily lives, over many years. Relevant exposures included exposure to fumes from the burning of wood and other materials, use of fuels, and occupational exposures such as working as a motor vehicle driver. Although NAS found these studies showed inconsistent results, they concluded that positive associations were reported by studies conducted in China between combustion products (particularly wood smoke) and cancer of the nasopharnyx.

NAS's positive finding of ''limited/suggestive evidence of an association'' between exposure to combustion products and cancers of the oral cavity and oropharynx was based on 9 epidemiological case-control studies. These epidemiological studies were of oral cavity and oropharynx cancer patients who were exposed to ambient air pollution in the cities where they lived, or who were exposed over many years due to their occupation or to indoor pollution in their homes due to combustion products from wood, coal, kerosene or gas burning stoves or heaters. Occupational exposures included working as a motor vehicle driver or railroad employee. NAS concluded that results of several studies suggested an association between cancers of the oral cavity and oropharynx and exposure to combustion products.

NAS's positive finding of ''limited/suggestive evidence of an association'' between exposure to combustion products and laryngeal cancer was based on one epidemiological cohort study of workers exposed to diesel exhaust, and 16 epidemiological case-control studies of patients with laryngeal cancer. These studies involved people who were exposed to combustion products due to their occupations as railway workers, motor

vehicle drivers, or as city commuters exposed to ambient air pollution. The studies also included people who used wood and other fuel burning stoves regularly. Several studies reported positive findings, including two studies regarding exposure to the emissions of fossil-fuel stoves and one study regarding exposure to wood-stove emissions. Several studies reported small increases in laryngeal-cancer risk for some exposures; however, overall, the results were inconsistent. NAS concluded that the epidemiologic literature overall provided limited/suggestive evidence of an association between exposure to combustion products and laryngeal cancer.

NAS found ''limited/suggestive evidence of an association'' between exposure to combustion products and bladder cancer. Studies that assessed the relationship between exposure to combustion products and bladder cancer have not been consistently positive, and no studies assessed measurements of exposure. One pooled analysis of occupational exposures found questionably increased risks in exhaust-related occupations, and the risk was increased with higher exposures to polycyclic aromatic hydrocarbons (PAHs) and benzopyrene, which are combustion products. A slightly increased risk was observed for diesel exhaust. In a related study, similar findings were noted with some exposures to exhausts and PAHs. A more detailed assessment of PAH exposures based on expert review of work-history information found apparently stable associations with average and cumulative PAH exposures and total duration of PAH exposures. Taken together, the results constituted limited or suggestive evidence of an association between combustion products and bladder cancer, but the lack of exposure measurements and the heterogeneity of results precludes classifying the association as sufficient.

NAS's positive finding of ''limited/suggestive evidence of an association'' between exposure to combustion products during pregnancy and low birthweight or intrauterine growth retardation was based on 8 epidemiological studies of pregnant women. These women were exposed to ambient air pollution ''smog'' in heavily polluted cities in the Czech Republic where coal was burned, and in urban cities located in South Korea, China, Canada, and the United States.

Two studies found evidence of a relationship between low birthweight or intrauterine growth retardation and combustion-product exposure. Their analyses controlled for several known risk factors, including maternal smoking. Several other studies reviewed by NAS provided supportive evidence of a relationship, but most were unable to adjust for maternal smoking.

NAS's positive finding of ''limited/suggestive evidence of an association'' between exposure to combustion products during pregnancy and preterm birth was based on four epidemiological studies. The studies that found evidence of a relationship between preterm birth and combustion-product exposure were based primarily on maternal residence during pregnancy. Most of these studies controlled for several known risk factors for preterm birth (such as maternal age, race, education, and access to prenatal care), but none of the studies could completely control for maternal smoking, which is an important risk factor for preterm birth.

NAS's positive finding of ''limited/suggestive evidence of an association'' between exposure to combustion products and asthma was based primarily on two studies, which evaluated an association between asthma and exposure to combustion products in ambient air pollution. NAS also relied on a study of veterans of the 1991 Gulf War that found an association between oil-well fire smoke and asthma, and a study associating ''biomass combustion'' and asthma among people over 60 years old living in India.

The epidemiological studies found that new cases of asthma were associated with combustion-product exposure in air pollutants. A study of Gulf War veterans using an objective exposure-measurement method, found an association between oil-well fire smoke and asthma in Gulf War veterans, but could not distinguish between new cases arising after the war and exacerbation of pre-existing conditions. Although the other key Gulf War study found no relationship between exposure and asthma, its definition of asthma was inadequate. Other studies of biomass-fuel combustion and outdoor air pollution supported a relationship between combustion exposure and asthma.

The Secretary has determined that, although there is limited/suggestive evidence of an association between exposure to combustion products and cancers of the nasal cavity and nasopharynx; cancers of the oral cavity and oropharynx; laryngeal cancer; bladder cancer; low birthweight/intrauterine growth retardation (with exposure during pregnancy); preterm birth (with exposure during pregnancy); and incident asthma, VA does not consider this exposure to be ''associated with'' the 1991 Gulf War. Please see section IV for further detail.

3. Inadequate/Insufficient Evidence

NAS found inadequate/insufficient evidence between exposure to combustion products and esophageal cancer; stomach cancer; colon cancer; rectal cancer; hepatic cancer; pancreatic cancer; melanoma; female breast cancer; male breast cancer; female genital cancers (cervical, endometrial, uterine, and ovarian cancers); prostatic cancer; testicular cancer; nervous system cancers; ocular melanoma; kidney cancer; non-Hodgkin's lymphoma; Hodgkin's disease; multiple myeloma, leukemia; myelodysplastic syndromes; preterm births (based on exposure during a specific time period during pregnancy, such as the first trimester); low birth weight and intrauterine growth retardation (based on exposure before gestation or during a specific period during pregnancy, such as the first trimester); specific birth defects, including cardiac effects (with maternal or paternal exposure before conception or maternal exposure during early pregnancy); all childhood cancers identified, including acute lymphocytic leukemia, leukemia, neuroblastoma, and brain cancer; neurobehavioral effects; post-traumatic stress disorder; nervous system subgroupings (or individual nervous system diseases); Multiple Chemical Sensitivity symptoms; chronic bronchitis (less than 1 year of exposure); emphysema; chronic obstructive pulmonary disease; ischemic heart disease or myocardial infarction (less than 2 years of exposure); dermatitis-irritant and allergic; and sarcoidosis.

NAS reviewed five studies of combustion products and esophageal cancer, and concluded that no consistent association was observed in those studies.

NAS reviewed six studies of combustion products and stomach cancer. Two of the studies reported an increased risk for stomach cancer, but the method used to assess exposure was limited and there were no adjustments for confounders.

Studies of exposure to combustion products and colon cancer reported positive associations for exposure to some combustion products, but not to others. Further, a number of the positive findings were limited, due to their large confidence intervals. NAS found that the evidence of an association was inadequate because of the small number of studies available.

With regard to rectal cancer, NAS found the studies' results were inconsistent, and the number of studies was small. NAS also noted that any

positive studies failed to include at least one high-quality study supported by an adequate exposure assessment.

NAS noted only one relevant study that evaluated exposure to combustion products and hepatic cancer. Although associations were noted for some occupations, there were few cases with relevant exposure, and the study did not consider all pertinent risk factors.

The four reviewed studies of combustion-product exposure and pancreatic cancer generally did not provide evidence of an association. One study found an association between exposure to coal combustion products and increased risk of pancreatic cancer, but it did not find a link between nine other types of combustion products and pancreatic cancer.

Studies regarding melanoma addressed exposure to combustion products but their reliability is limited because they failed to adjust for exposure to sunlight, a major risk factor for melanoma. Overall, the studies did not report significant findings of association for most types of exposure. Two studies found isolated effects of specific exposures (propane exhaust and being a traffic administrator, respectively) that were not among the major exposures considered by NAS.

NAS reviewed three studies concerning nonmelanoma skin cancer and combustion products. The studies generally did not report statistically significant findings of an association. NAS found that for the more common type of nonmelanoma skin cancer (basal cell carcinoma), the findings were largely negative. Two of the studies stated findings regarding squamous cell carcinoma, with one finding a statistically significant association for one type of exposure (diesel fumes), but not others, and one study finding no association.

The two studies involving female breast cancer and exposure to combustion products essentially had negative results.

Of the two reviewed studies regarding exposure to combustion products and male breast cancer, one did not find an association between PAH exposure and male breast cancer, and the other, although reporting a positive association, was limited by its method of exposure assessment.

NAS reviewed three studies regarding exposure to fuels or combustion products and cervical, endometrial, uterine, or ovarian cancer, and found that they provided inadequate support for an association.

NAS reviewed four prostate cancer studies that measured the relationship between occupations having potential for exposure to combustion products or PAHs or having more rigorously derived estimates of exposure to such agents and prostatic cancer. Although the studies reported several positive associations, NAS noted that the results were not consistently positive. For example, one study showed results contrary to a dose-response relationship, while another study showed an increased risk in firefighters and railroad workers but not in other transportation or trucking workers.

Testicular cancer studies did not provide enough relevant data to draw any sort of conclusion about exposure to fuels or combustion products and testicular cancer.

Data on combustion products and brain cancer (nervous system cancers) were too sparse to determine whether an association exists.

Three studies of ocular melanoma reported increased, but imprecise, risks of ocular melanoma in occupations related to transportation. The reliability of these studies is limited by their small size, lack of statistical significance, and lack of adequate exposure assessment.

Although some studies of exposure to combustion products and kidney cancer suggested a possible association based on job title, NAS found that the results were not consistently positive, with some studies showing no increased risk. Further, the results of some studies showing positive associations were limited by considerations of statistical significance and other factors.

Studies on non-Hodgkin's lymphoma (NHL) had no firmly positive findings. In the study with the most objective exposure assessment, there was no indication of an association with any of the fuels or their combustion products.

The studies regarding Hodgkin's disease (HD) were limited by their small numbers of cases and the nonspecificity of their exposure assessments. Further, the three primary studies reviewed by NAS showed findings of no association.

NAS reviewed ten studies concerning multiple myeloma and exposure to combustion products. Three of the studies the NAS found to be among the most sizable or significant reported only marginally increased risks and are just barely suggestive of an association. Other studies showed no association, and yet other studies are limited due to imprecise estimates of increased multiple-myeloma risk in association with exhaust exposure and concerns regarding exposure assessments. NAS concluded that the literature overall provided insufficient evidence of an association.

NAS reviewed six studies of leukemia and exposure to combustion products. Four of the studies showed no findings of a statistically significant increased risk. In the other two studies, the apparent associations were related to separate types of leukemia, and the authors of the studies noted that any increase in leukemia risk was difficult to attribute specifically to exhaust because of concurrent exposure to fuels and benzene. The exposure assessments in all the studies were based on information from sources of questionable reliability (personal interviews or medical records) or had a low degree of specificity for combustion products.

NAS reviewed two studies regarding myelodysplastic syndromes and exposure to combustion products. One study found no significant evidence of an association. The other study found stable evidence of an association for the not particularly substance-specific occupation of machine operator. Further, the reliability of that study is limited because the analyses by researchers were rudimentary and failed to adjust for possible confounders when the information was available.

As noted above in section III.A.2, NAS found limited/suggestive evidence of an association between exposure to combustion products during pregnancy and preterm birth. NAS similarly found limited/suggestive evidence of an association between exposure to combustion products during pregnancy and low birth weight or intrauterine growth retardation. However, NAS also found that there was inadequate/insufficient evidence of an association between combustion products exposure at any specific point during pregnancy (such as the first trimester) and these reproductive effects. Although several of the studies NAS reviewed reported results for exposure at different stages of pregnancy, there were no consistent findings as to whether the risks were greater with exposure early or late in pregnancy. Additionally, none of the studies completely controlled for the significant risk factor of smoking during pregnancy.

One study of an association between maternal exposure to air pollutants and the risk of birth defects reported relationships between certain cardiac defects and increasing exposure to CO and O3. NAS discussed two studies that examined the association between paternal employment as a firefighter and the risk of cardiac birth defects. One of the studies found no evidence of an association, while the other found some evidence that certain cardiac defects were associated with paternal employment as a firefighter. Both studies had limitations due to size,

potential confounding and/or inadequate information about duration of paternal firefighting. In a study of maternal or paternal exposures among residents of Rotorua, New Zealand, a city with high geothermal exposure to hydrogen sulfide, no excess birth defects were reported in comparison with residents in the rest of New Zealand.

NAS discussed eleven studies of the association between combustion-products exposure and childhood cancers, including acute lymphocytic leukemia, leukemia, neuroblastoma, and brain cancer. All of the studies were limited by their inability to validate employment history and by the lack of details on specific assessments of exposure to combustion products. The exposure groups were broad and included many diverse occupations where exposure to other chemicals was noted in addition to combustion products. Six of the studies found no association between combustion products exposure and the studied childhood cancers. One study reported general findings of associations for a variety of childhood cancers, while the remaining four studies contained mixed findings, reporting positive associations for certain types of cancers.

All of the studies on neurobehavioral effects and combustion-product exposure suffered from significant methodological limitations. Several Gulf War studies reported positive relationships between self-reported exposure and self-reported neuropsychologic, cognitive, or mood symptoms or multiple unexplained symptoms, but the lack of objective measurement of exposure limits the reliability of those findings. Among two non-veteran studies reporting positive findings for certain neurobehavioral effects, one study did not have a control group, and the other had serious limitations, especially in subject selection.

NAS identified no studies showing an association between combustion-products exposure and post-traumatic stress disorder (PTSD). Although several studies addressed the prevalence of PTSD among firefighters, the result is most likely attributable to the hazardous nature of the job rather than exposure to combustion products. Only a few Gulf War studies have examined whether self-reported combustion-product exposure was related to PTSD as an outcome measure, and none has found such a relationship. None of the studies with objectively measured oil-well fire smoke examined PTSD as an outcome measure.

Regarding nervous system disease subgroupings (or individual nervous system diseases), NAS excluded studies involving only overbroad and nonspecific health outcomes and focused on individual neurologic diseases or subgroupings of nervous-system diseases. Only two identified studies examined nervous-system subgroupings in relation to combustion-products exposure. One study found exposure-response relationships with nervous-system subgroupings in a hospital discharge survey. The limitation of this study was assignment of exposure (residence only) and potential for exposure misclassification. The other study did not find a relationship between combustion product exposure and multiple sclerosis. No other studies of nervous system subgroups or the individual diseases met NAS's criteria for inclusion.

Although NAS reviewed several studies of Multiple Chemical Sensitivity (MCS) in Gulf War veteran or civilian samples, those studies provided relatively little evidence that MCS was associated with combustion-products exposure in service. Several studies involved questionnaires on which veterans or civilians self-reported that exposure to certain combustion products (*e.g.*, tobacco smoke, car exhaust) are among the factors that can trigger their symptomatology. However, NAS noted that most of the studies did inquire as to the first onset of symptoms. Further, the studies generally were limited by methodologic concerns, including self-reported exposures and symptoms and the possibility of recall bias.

Although the studies reviewed by NAS indicated a probable relationship between long-term (over 1 year) exposure to combustion products and chronic bronchitis, a key unresolved issue was whether shorter-term exposures (less than 1 year) can cause the condition. NAS found inadequate published data that addressed the effect of shorter term combustion-product exposures (less than 1 year) on the risk of developing chronic bronchitis. Even if it could be shown that long-term exposure to combustion products caused chronic bronchitis, it might be expected to cease after exposure without long-term health consequences. NAS found inadequate published data to evaluate the natural history of chronic bronchitis after cessation of exposure to combustion products.

A study found that mortality due to emphysema was not considerably increased among workers exposed to diesel exhaust. This result was found after adjustments for the effects of smoking were made. Likewise, a study of veterans exposed to oil-well fires also did not find a relationship with emphysema. Other studies that included emphysema in the analysis were methodologically inadequate.

NAS did not identify any high-quality studies that evaluated the effect of exposure to combustion products on the risk of chronic obstructive pulmonary disease (COPD), as defined by objective evidence of irreversible airflow obstruction with spirometry. Several studies of biomass-smoke exposure used measures of airflow obstruction but had methodologic limitations that precluded clear conclusions about the connection between combustion exposure and COPD.

There was relatively consistent epidemiologic evidence of the relation between ischemic heart disease (including myocardial infarction) and long-term exposure to fossil-fuel combustion products, including motor-vehicle exhaust and combustion-derived fine particulate matter. However, the increased risk was small in absolute terms, and there was no adequate epidemiologic evidence to support the role of relatively short exposures (similar to that experienced in the Gulf War), followed by an exposure-free period, and then development of ischemic heart disease events. Accordingly, NAS found inadequate/insufficient evidence to determine whether an association exists between short-term exposure (less than 2 years) to combustion products and the development of ischemic heart disease after an exposure-free period of months or years.

Rashes were frequently reported by Gulf War veterans, but only one study of Gulf War veterans searched for relationships between dermatitis and self-reported exposure during the Gulf War. No exposure to combustion products or any other self-reported exposure was related to dermatitis, defined as rashes, eczema, or skin allergies.

NAS identified three epidemiologic studies on the relationship between occupational or residential exposure to fires and sarcoidosis, all of which had significant methodologic limitations. One study had numerous limitations, such as inadequate description of how the cases without biopsy confirmation were diagnosed and the lack of control for employment history (besides farming), recall bias, and lack of measurement of pollutant concentrations. The authors noted that sarcoidosis could be associated with a component of wood-burning or wood-

handling, namely contact with smoke, ash, wood particles, or wood molds. Another study was limited by the lack of specific exposure assessment and of analysis of duration or frequency of exposure to combustion products. There was no control for potential confounders, such as race or familiar aggregation of sarcoidosis. In addition, there was no way to determine the role of combustion products or exposure to other toxicants, allergens, or infectious agents. The third study was limited by the small sample, the low statistical power, the lack of a risk estimate for firefighters versus police officers, the lack of exposure assessment for combustion products, and the lack of assessment of coexposures to other chemicals in the workplace.

Based on the information and analysis in the NAS report, the Secretary has determined that there is insufficient credible evidence to conclude that there is a positive association between exposure to combustion products and esophageal cancer; stomach cancer; colon cancer; rectal cancer; hepatic cancer; pancreatic cancer; melanoma; nonmelanoma skin cancer; female breast cancer; male breast cancer; female genital cancers (cervical, endometrial, uterine, and ovarian cancers); prostatic cancer; testicular cancer; nervous system cancers; ocular melanoma; kidney cancer; non-Hodgkin's lymphoma; Hodgkin's disease; multiple myeloma, leukemia; myelodysplastic syndromes; preterm births (based on exposure during any specific time period during pregnancy, such as the first trimester); low birth weight and intrauterine growth retardation (based on exposure before gestation or during any specific period during pregnancy, such as the first trimester); specific birth defects, including cardiac effects (with maternal or paternal exposure before conception or maternal exposure during early pregnancy; all childhood cancers identified, including acute lymphocytic leukemia, leukemia, neuroblastoma, and brain cancer; neurobehavioral effects; post-traumatic stress disorder; nervous system disease subgroupings (or individual nervous system diseases); MCS symptoms; chronic bronchitis (less than 1 year of exposure); emphysema; chronic obstructive pulmonary disease; ischemic heart disease or myocardial infarction (less than 2 years of exposure); dermatitis-irritant and allergic; and sarcoidosis. Further, as explained in section IV of this notice, VA does not consider the combustion-products exposures underlying the NAS findings to be exposures ''associated with'' the 1991 Gulf War. Therefore, a presumption of service connection is not warranted for any such illness based upon exposure to combustion products during service in the Gulf War.

B. Hydrazines

1. Limited/Suggestive Evidence of an Association

NAS found limited/suggestive evidence of an association between exposure to hydrazines (monomethylhydrazine ''MMH,'' and unsymmetrical (1,1-)dimethylhydrazine ''UDMH'') used as rocket propellants, and lung cancer. This conclusion was based primarily on one high-quality study, as discussed below.

An occupational study of a U.S. cohort of aerospace workers engaged in testing rockets using hydrazine fuel demonstrated an association between hydrazine exposure and risk of lung cancer. Several sources of potential confounding, including sex and radiation exposure, were controlled by study design. Other potentially confounding variables were controlled in multivariate analysis, including age, pay type, and time since hire or transfer. Although the smoking status of most workers was unknown, there was indirect evidence that smoking did not confound the results.

Two other studies of lung cancer were limited by small sample size and inadequate study power. In addition, another study was limited by its failure to control for coexposure to other carcinogenic substances, including asbestos and PAHs. The lack of internal control subjects and the lack of information on smoking constitute major limitations for both studies. Consequently, there was inadequate evidence to evaluate the consistency of the association between hydrazine and lung cancer beyond the study of the U.S. cohort.

NAS stated in its report that U.S. military personnel could have been exposed to UMDH during Operation Desert Storm if UMDH was used as a rocket fuel in Scud missiles launched by Iraq and the U.S. military personnel were in the vicinity of the Scud missiles when they disintegrated. However, NAS stated that hydrazines were apparently not used in Scud missiles during the 1991 Gulf War even though Iraq had apparently experimented with UDMH as a rocket fuel. NAS further stated that it was not aware of any other potential use of hydrazines that could have resulted in exposure of U.S. service personnel.

Based on information and analysis in the NAS report and from DoD, VA does not consider exposure to hydrazines to be exposures ''associated with'' the 1991 Gulf War. Please see section IV for further detail. Therefore, a presumption of service connection is not warranted for lung cancer based upon exposure to hydrazine during service in the 1991 Gulf War.

2. Inadequate/Insufficient Evidence

NAS found inadequate/insufficient evidence between hydrazines and hematopoietic and lymphopoietic cancers; digestive tract cancers; pancreatic cancer; bladder cancer; kidney cancer; emphysema; ischemic heart disease or myocardial infarction; and hepatic disease.

NAS noted that relatively few studies existed concerning the health effects of hydrazine exposure, and that lung cancer was the only health outcome represented in all three cohort studies reviewed by the committee. NAS further noted that individual findings in those studies also reported somewhat increased mortality from cancer at sites other than the lung (hematopoietic and lymphopoietic, bladder and kidney, digestive tract, and pancreas) and from two noncancer conditions (emphysema and ischemic heart disease). NAS concluded, however, that the few available studies do not provide adequate or consistent evidence of an association between exposure to hydrazines and any of those other health outcomes.

Based on the information and analysis in the NAS report, the Secretary has determined that there is insufficient credible evidence to conclude that there is a positive association between exposure to hydrazines and hematopoietic and lymphopoietic cancers; digestive tract cancers; pancreatic cancer; bladder cancer; kidney cancer; emphysema; ischemic heart disease or myocardial infarction; and hepatic disease. Further, as explained in section IV of this notice, VA does not consider exposure to hydrazines to be exposures ''associated with'' the 1991 Gulf War. Therefore, a presumption of service connection is not warranted for any such illness based upon exposure to hydrazine during service in the 1991 Gulf War.

C. Fuels—Inadequate/Insufficient Evidence

NAS found inadequate/insufficient evidence of an association between exposure to fuels and cancers of the oral cavity and oropharynx; cancers of the nasal cavity and nasopharynx; esophageal cancer; stomach cancer; colon cancer; rectal cancer; hepatic cancer; pancreatic cancer; laryngeal cancer; lung cancer; melanoma; nonmelanoma skin cancer; female breast

cancer; male breast cancer; female genital cancers (cervical, endometrial, uterine, and ovarian cancers); prostatic cancer; testicular cancer; nervous system cancers; kidney cancer; bladder cancer; Hodgkin's disease; non-Hodgkin's lymphoma; multiple myeloma; myelodysplastic syndromes; adverse reproductive or developmental outcomes (including infertility, spontaneous abortion, childhood leukemia, CNS tumors, neuroblastoma, and Prader-Willi syndrome); peripheral neuropathy; neurobehavioral effects; MCS symptoms; nonmalignant respiratory disease; chronic bronchitis; asthma; emphysema; dermatitis-irritant and allergic; and sarcoidosis.

NAS reviewed five studies regarding cancer of the oral cavity and oropharynx and fuels. NAS found that the three occupational cohort studies it reviewed each had limited statistical power and were therefore uninformative. NAS further concluded that the two case-control studies it reviewed failed to report any consistent relationship between fuel exposure and cancers of the oral cavity and oropharynx.

NAS found little information available on exposure to fuels and cancers of the nasal cavity and nasopharynx, and that the two studies it reviewed failed to provide convincingly positive findings.

NAS found that studies of an association between fuel exposure and esophageal cancer were few and results were inconsistent and inadequate to support an association. Some of the studies were unreliable because they analyzed esophageal cancer and stomach cancers together, and NAS therefore could not determine which specific cancer type may have been associated with fuel exposure. Other studies showed no evidence of association.

NAS also found that studies of an association between fuel exposure and stomach cancer were inconsistent and inadequate to support an association. As noted above, some of the studies were unreliable because they analyzed esophageal cancer and stomach cancers together in relation to fuel exposure and NAS could not determine which specific cancer type may have been associated with fuel exposure. Other studies showed no evidence of association.

NAS found that the studies concerning fuel exposure and colon cancer provided no consistent evidence of an association. Although some studies showed increased risk of colon cancer, the increases were modest and the confidence intervals in several instances included the null. Three studies analyzed colon cancer and rectal cancer together and, therefore, NAS could not determine whether exposure to fuels may have been associated with a specific type of cancer.

NAS found that the studies reporting positive associations between fuels and rectal cancer were not consistent and the number of studies was small. Furthermore, the positive studies failed to include at least one high-quality study supported by an adequate exposure assessment. Some studies found no evidence of association between fuel exposure and rectal cancer.

NAS noted only one relevant study that evaluated exposure to fuels and hepatic cancer in which there were few cases with relevant exposure, and the study did not consider all pertinent risk factors.

NAS found only two relevant studies on the risk of pancreatic cancer posed by fuel exposure. One study found no association. The other study reported an association, but the results were imprecise, due in part to a large confidence interval that included the null.

NAS found that the results regarding exposure to fuels and laryngeal cancer were inconsistent. Two studies reviewed by NAS reported a modest increase in the risk of laryngeal cancer associated with exposure to fuels, but the reliability of those findings is limited because the exposures in both studies were self-reported. Another study reported an increased, but imprecise, risk of laryngeal cancer in vehicle mechanics, but found no increase in garage and gasoline-station workers.

NAS found the results of studies of fuel exposure and lung cancer risk were inconsistent. One study reported an association between kerosene and crude-oil exposure and squamous-cell lung cancer, between diesel-fuel exposure and nonadenocarcinoma, and between heating-oil exposure and oat-cell lung cancer. Two studies did not find an association in workers most likely to have been exposed to fuels.

The studies examined by NAS addressing melanoma and exposure to fuels were not adjusted for sun exposure, a major risk factor for melanoma, and the workers—particularly the exploration, drilling, and pipeline workers—may have received considerable sun exposure while performing their jobs. But the one case-control study with fairly reliable exposure analysis did not support an association in workers likely to have been exposed to fuels.

Of the available epidemiologic studies regarding nonmelanoma skin cancer that met NAS's criteria, one study reported one borderline association between fuel exposure and squamous-cell carcinoma. The other two reports reviewed by NAS had methodologic limitations and did not provide reliable evidence of an association. For the more common type of nonmelanoma skin cancer (basal cell carcinoma), the findings were largely negative.

NAS reviewed three studies concerning fuel exposure and female breast cancer. One study found no increased risk of breast cancer, while the other two found only an insignificant increase in risk.

NAS found no studies assessing the possible relationship of male breast cancer to fuel exposure alone. NAS reviewed one study that reported a positive finding regarding combined exposure to fuels and combustion products and male breast cancer. NAS found, however, that the method used to assess exposure in that study was limited.

NAS reviewed three studies concerning fuel exposure and female genital cancers. The studies failed to provide any significant evidence of an association between exposure to fuels and cervical, endometrial, uterine, or ovarian cancer.

NAS reviewed several studies regarding an association between fuel exposure and prostatic cancer. Only one of those studies reported a positive association between a fuel-related exposure and prostatic cancer. That study found an association between exposure to diesel fuel and prostate cancer, but did not find significant evidence of an association for other types of fuel exposure. The other reports reviewed by NAS were negative for any association.

Only one study addressed the association between fuel exposure and testicular cancer, and it found no evidence of an association. NAS concluded that there was not enough relevant data to draw any sort of conclusion about exposure to fuels and testicular cancer.

Several studies reported sporadic associations between fuel exposure and nervous system cancers (brain cancer), but the results were limited by several factors, including wide confidence intervals that include the null. In some studies, the increased risk was found only among workers likely to have lesser fuel exposure, while no increased risk was seen among workers likely to have greater fuel exposure. None of the studies could be considered a high-quality study supported by an adequate

exposure assessment. Additionally, some studies found no evidence of association.

No key study that was positive for an association between exposure to fuels and kidney cancer was identified. NAS found the uniformly negative results of a study of a comprehensive sample of renal cell carcinoma cases in the petroleum industry with excellent exposure assessment to be compelling.

NAS reviewed several studies concerning fuel exposure and bladder cancer. Several of the studies found no evidence or no significant evidence of an association. Other studies provided evidence of a relationship between fuel exposure and bladder cancer, but the relationship was not consistently increased in any study with a detailed and specific exposure assessment. The positive findings in some studies were further limited by the methods used to estimate exposure and the difficulty in segregating fuel exposure from combustion-product exposure in some instances.

Regarding Hodgkin's disease, the studies were limited by their small numbers of cases and the nonspecificity of their exposure assessments. Of the five studies reviewed by NAS, two found no evidence of an association between fuel exposure and Hodgkin's disease, one found an insignificant increase only among males. The other two studies showed evidence of an association, but were limited by wide confidence intervals and the lack of any relationship to a specific job or duration of employment.

Studies on non-Hodgkin's lymphoma had no firmly positive findings. The most well conducted studies showed no evidence of association.

NAS found no consistent relationship between exposure to fuels and multiple myeloma in the studies reviewed. Most studies reported no association.

NAS reviewed two studies that showed evidence of an association between myelodysplastic syndrome and exposure to petroleum-related substances. However, a significantly larger study using similar methods and procedures failed to produce consistent results. The larger study reported only a modest increased risk, with confidence intervals including the null, and did not find any evidence of a dose-response relationship with duration or intensity of exposure.

NAS determined that it was difficult overall to reach conclusions on the epidemiologic studies of adverse reproductive outcomes and exposure to fuels. The assessment of findings was limited by the small number of studies available on each health outcome, the possibility of recall bias, and the lack of specificity of exposure to the agents of concern in this report. NAS found no adequate studies regarding the relationship between fuel exposure and female infertility. NAS found one study concerning fuel exposure and male fertility, and that study showed no effect on sperm measures among persons exposed to jet fuels. NAS found only one study on fuel exposure and spontaneous abortion. The study showed a significant increase in spontaneous abortion among women living in an area where water used for drinking, cooking, and bathing was contaminated by nearby oil fields, however, the finding was potentially limited by recall bias and methods of estimating exposure. NAS identified one study showing an increased risk of childhood leukemia in the offspring of men exposed to petroleum for 1,000 days or more before conception, and one study showing an increased risk of childhood leukemia based on maternal exposure to fuels during pregnancy. The latter study was potentially limited by recall bias, interviewer bias, control-selection procedures, and lack of validation for other risk factors. NAS noted that three other occupational studies showed no relationship between parental employment in a field involving fuel exposure and childhood leukemia. With respect to childhood cancers of the central nervous system, NAS identified one study showing no increase in neuroblastoma based on maternal exposure to fuels during pregnancy, but moderate increases based on paternal exposures. The study authors were unable to distinguish between paternal exposures occurring before or after conception. Another study showed an increased risk of neuroblastoma based on maternal or paternal exposures, although the study authors noted several limitations on the interpretation of the data, including bias, chance, and self-reporting of exposure information. NAS noted that two studies showed a possible association between parental exposure to hydrocarbons and the occurrence of Prader-Willi Syndrome in offspring, although neither study collected information on potential confounders. A third study found no association between exposure to hydrocarbons and Prader-Willi Syndrome in offspring. In view of the minimal and indeterminate data, NAS concluded that there was inadequate/insufficient evidence of an association between parental fuel exposure and adverse reproductive or developmental outcomes.

Regarding neuropathy, NAS reviewed two studies, in which certain neurological symptoms were more prevalent among subjects with higher exposures to jet fuels, while other neurological symptoms were either not increased or were more prevalent among controls. NAS concluded that, although certain symptomatic differences were apparently related to exposure, there were no objective measures to support a relationship between jet-fuel exposure and neuropathy. The limitations of the studies included small samples and the lack of internal nonexposed groups of controls.

Regarding neurobehavioral effects, NAS found that several studies of Gulf War veterans found a relationship between the veterans' self-reported fuel exposure and their self-reported neuropsychologic, cognitive, or non-specific symptoms, but that these studies provided weak evidence of any relationship, due to recall bias. NAS also discussed a study of increased neurologic and cognitive abnormalities among persons who engaged in ''petrol-sniffing,'' but found those results inconclusive because the effects were most likely due to exposure to lead rather than the fuels themselves.

NAS found that studies of MCS in Gulf War veteran or civilian samples generally provided relatively little evidence that MCS was associated with fuel exposure in service. Several studies involved questionnaires on which veterans or civilians self-reported that exposure to fuels are among the factors that can trigger their symptomatology. The studies generally were limited by methodologic concerns, including self-reported exposures and symptoms and the possibility of recall bias. Further, NAS noted that most of the studies did not address the factors relating to the first onset of symptoms as distinguished from subsequent recurrence of symptoms. The only study addressing first onset was an occupational study that incorporated objective exposure measurement and found a relationship between symptoms of MCS and fuel exposure. However, because the study was limited by the small sample and lack of a matched control group of workers, NAS found that it did not meet the criteria for a primary study that could support an association.

Regarding respiratory diseases, the studies generally did not report specific respiratory disease outcomes and exposure assessment, so it was difficult to reach a conclusion as to a relationship between respiratory disease outcomes and exposure to fuels. However, NAS noted that most of the studies it reviewed showed

standardized mortality ratios of 1.0 or less in study populations, showing no increased risk of death due to nonmalignant respiratory disease, asthma, chronic bronchitis, or emphysema in populations exposed to fuels.

Regarding irritant contact dermatitis, many fuels (for example, gasoline and kerosene) were generally acknowledged skin irritants, as indicated by the studies reviewed by NAS. Irritant contact dermatitis was evident soon after exposure but usually disappeared soon after removal of the irritant. There are few epidemiologic studies, however, of exposure to fuels and irritant and allergic contact dermatitis. Accordingly, NAS concluded that there was inadequate/insufficient evidence of an association between fuel exposure and chronic irritant and allergic contact dermatitis after cessation of exposure.

The NAS report does not identify any studies concerning the possible relationship between exposure to fuels and sarcoidosis. However, NAS concluded, presumably based on the absence of relevant studies, that there is inadequate/insufficient evidence of an association between fuel exposure and sarcoidosis.

Based on the information and analysis in the NAS report, the Secretary has determined that there is insufficient credible evidence to conclude that there is a positive association between exposure to fuels and cancers of the oral cavity and oropharynx; cancers of the nasal cavity and nasopharynx; esophageal cancer; stomach cancer; colon cancer; rectal cancer; hepatic cancer; pancreatic cancer; laryngeal cancer; lung cancer; melanoma; nonmelanoma skin cancer; female breast cancer; male breast cancer; female genital cancers (cervical, endometrial, uterine, and ovarian cancers); prostatic cancer; testicular cancer; nervous system cancers; kidney cancer; bladder cancer; Hodgkin's disease; non-Hodgkin's lymphoma; multiple myeloma; myelodysplastic syndromes; adverse reproductive or developmental outcomes (including infertility, spontaneous abortion, childhood leukemia, CNS tumors, neuroblastoma, and Prader-Willi syndrome); peripheral neuropathy; neurobehavioral effects; Multiple Chemical Sensitivity symptoms; nonmalignant respiratory disease; chronic bronchitis; asthma; emphysema; dermatitis-irritant and allergic; and sarcoidosis. Therefore, a presumption of service connection is not warranted for any such illness based upon exposure to fuels during service in the 1991 Gulf War.

D. Nitric Acid—Inadequate/Insufficient Evidence

NAS found inadequate/insufficient evidence between nitric acid and stomach cancer; melanoma; lymphopoietic cancers; pancreatic cancer; laryngeal cancer; lung cancer; bladder cancer; multiple myeloma; and cardiovascular diseases.

Generally, on the basis of NAS's review of the epidemiologic evidence, no available studies directly examined the association between exposure to nitric acid and long-term human health effects. Most studies were able only to investigate the health effects of nitric acid in combination with other strong inorganic acids, such as sulfuric acid, or other known carcinogens such as asbestos: that is, an independent assessment of nitric acid exposure was impossible because workers were exposed simultaneously to such mixtures. As a result, the health effects associated with exposure to nitric acid alone cannot be assessed.

It appears that NAS stated conclusions with respect to nitric acid and nine disease categories because certain studies state findings with respect to those disease categories in populations that potentially were exposed to a group of carcinogens that may have included nitric acid. As explained above, however, NAS concluded that the existing data are not sufficiently specific to nitric acid and, therefore, do not provide reliable evidence of an association between exposure to nitric acid and the occurrence of any disease.

Based on the information and analysis in the NAS report, the Secretary has determined that there is insufficient credible evidence to conclude that there is a positive association between exposure to nitric acid and stomach cancer; melanoma; lymphopoietic cancers; pancreatic cancer; laryngeal cancer; lung cancer; bladder cancer; multiple myeloma; and cardiovascular diseases. Therefore, a presumption of service connection is not warranted for any such illness based upon exposure to nitric acid during service in the 1991 Gulf War.

IV. VA Response to the National Academy of Sciences Report

In order to facilitate action on the 2004 update report from NAS, VA established the 2005 Gulf War Health Effects Task Force to consider and develop recommendations for the Secretary of Veterans Affairs. The Task Force consisted of top Departmental officials, specifically the Under Secretaries for Health and Benefits, the General Counsel, and the Assistant Secretary for Policy and Planning. The review provided the basis for the Secretary's determination regarding health outcomes related to service in the Gulf War.

A. 1991 Gulf War Hazard Exposure Data

Although the statutes necessarily contemplate that NAS would evaluate non-veteran studies concerning the health effects of various exposures, they also require NAS to attempt to relate its findings to the actual experiences of Gulf War veterans.

For example, Public Law 105–277, § 1603(e)(1)(B) directs NAS to evaluate and summarize ''the increased risk of the illness among human or animal populations'' including but not limited to Gulf War veterans. Public Law 105–368, § 101(c)(1)(C) directs NAS to ''identify the illnesses * * * for which there is scientific evidence of a higher prevalence among populations of Gulf War veterans when compared with other appropriate populations of individuals.'' The statute goes on to require that for each illness NAS finds to be more prevalent in Gulf War veterans or to be associated with a possible Gulf War hazardous exposure, NAS ''shall determine (to the extent available scientific evidence permits) whether there is scientific evidence of an association of that illness with Gulf War service or exposure during Gulf War service to one or more agents, hazards, or medicines or vaccines.'' Public Law 105–368, § 101(e)(1).

Public Law 105–368, § 101(e)(1)(E), (F) directs NAS to consider ''in any case where information about exposure levels is available, whether the evidence indicates that the levels of exposure of the studied populations were of the same magnitude as the estimated likely exposures of Gulf War veterans; and * * * whether there is an increased risk of illness among Gulf War veterans in comparison with appropriate peer groups.''

Congress further provided that ''[i]n conducting the review and evaluation * * * [NAS] shall * * * assess the latency period, if any, between service or exposure to any potential risk factor (including an agent, hazard, or medicine or vaccine [reviewed]) * * * and the manifestation of such illness.'' Public Law No. 105–368, § 101(c)(3).

Determinations concerning the increased risk of illness among Gulf War veterans, as well as the latency periods for manifestation of illness, necessarily require consideration of the degree and the duration of exposure to the relevant environmental hazards. Findings based on non-veterans dwelling in cities or

typical civilian occupational studies may not necessarily support findings specific to Gulf War service because of differences in the magnitude and duration of exposure between these groups.

NAS concluded in its report that it was essentially unable to respond to Congress' charge to relate their literature-based health findings to the actual exposure magnitude and duration for Gulf War veterans. NAS explained:

> To estimate the magnitude of risk of a particular health outcome among Gulf War veterans, the committee would need to compare the rates of disease or other health effects in veterans exposed to the putative agents with the rates in those who were not exposed. That would require information about the specific agents to which individual veterans were exposed and about their doses. However, there is a paucity of data regarding the agents and doses to which individual Gulf War veterans were exposed. * * * Because of the lack of various kinds of data on veterans, the committee could not extrapolate from the exposures in the studies it reviewed to the exposures of Gulf War veterans. Therefore, it could not determine the likelihood of increased risk of adverse health outcomes among Gulf War veterans due to exposure to the agents examined in this report.

''Gulf War and Health, Volume 3. Fuels, Combustion Products, and Propellants,'' pp.16–17 (December 20, 2004).

NAS further noted that the studies it reviewed often ''included people whose exposures had been over a lifetime (such as to air pollution in their communities) or included workers employed in a particular industry over many years.'' NAS stated: ''In contrast, the exposures of veterans in the Persian Gulf were of relatively short duration with varying intensity. Therefore, the exposures experienced during the Gulf War might only approximate the exposures described in the occupational and environmental literature reviewed in this report.'' ''Gulf War and Health, Volume 3. Fuels, Combustion Products, and Propellants,'' p. 17 (December 20, 2004).

As such, NAS was unable to relate their health findings to the actual exposures experienced by Gulf War veterans. However, some relevant data is available.

1. Gulf War Exposure to Combustion Products

In its September 2000 report, ''Environmental Exposure Report: Oil Well Fires'' the Department of Defense (DoD) summarized its investigations on exposure of Gulf War veterans to oil-well-fire smoke and related combustion products during the 1991 Gulf War. The report describes how from January through late February 1991, retreating Iraqi forces set fire to more than 600 Kuwaiti oil-wells, creating huge columns of smoke. These fires were brought under control within 9 months.

The report concludes that, although the oil-well fires produced smoke plumes, the actual exposure to combustion products of U.S. service members in that region was generally unremarkable. Furthermore, unlike many Gulf War environmental hazards of concern, the results of extensive monitoring efforts by various agencies for air pollutants and combustion products from the 1991 Gulf oil-well fires are available to support the report's conclusions about such exposure. The report also concludes that some individual veterans who were near the oil-well fires could have been exposed to high levels of large particulates, primarily as material deposited directly to skin or clothing rather than through inhalation.

According to the report,

> For about eight months immediately after the ground war, U.S. and international organizations conducted comprehensive air monitoring to characterize the contaminants of concern and, by measuring their relative concentrations in the atmosphere, lay the groundwork for assessing their likely short- and long-term impacts to human health and the environment. * * * Ground-level and airborne-based monitoring platforms collected numerous samples. The U.S. Army Environmental Hygiene Agency conducted the most comprehensive monitoring program, including taking more than 4,000 samples.
>
> In general, the monitoring results were consistent among the various organizations involved. * * * the maximum observed concentrations of air contaminants, other than particulate matter, were similar to levels found in U.S. suburbs and generally lower than those found in large urban areas. Overall, * * * monitoring data show the pollutant concentrations present in the environment, particularly in areas where U.S. troops and civilians were located, fell below NIOSH [National Institute for Occupational Safety and Health], OSHA [Occupational Safety and Health Administration], or ACGIH [American Conference of Government Industrial Hygienists] recommended exposure limits for hazardous substances in the workplace.

The DoD report states:

> At the time of the destruction, the medical and environmental community feared exposure to the fires would result in catastrophic acute and chronic health effects. However, the fires' high combustion efficiency, the nature and amount of the smoke's contaminants, the lofting effect created by solar heating, and the local wind and weather conditions combined to reduce the fires' impact on military and civilian populations.
>
> Results of air monitoring studies indicated, except for particulate matter, air contaminants were below levels established to protect the health of the general population. However, there were self-reports by a number of veterans who complained of acute symptoms they allege were a result of their proximity to the burning oil wells.

The DoD report points out that exposures to the fires by U.S. service members were quite short compared to civilians dwelling in U.S. cities exposed to urban ''smog'' and indoor air pollution, or workers exposed to engine exhaust: ''Fortunately, the time period during which military and civilian populations were subjected to the fires' pollution was relatively short.''

Nevertheless, some 1991 Gulf War troops apparently reported various short-term adverse health symptoms that could have been related to exposures to oil fire smoke. The report characterized these as follows: ''Several troops reported significant short-term exposures to oil fire smoke, soot, and unburned oil, usually after having been totally enveloped in oil-well-fire fallout. At times troops reported being soaked with unburned oil.'' ''Several monitoring sites observed high levels of airborne particulates, sand, and soot. Analysis of samples, however, indicated the particles were mostly sand-based materials typical for this region of the world. In the particulate matter samples, PAH and toxic metal concentrations were low.'' Finally, ''[w]hile smoke plumes occasionally touched the ground, enveloping nearby personnel, few were in those areas for extended periods of time.''

DoD's finding that the oil-well fires did not result in significant unique exposures has been confirmed by several other sources. The Presidential Advisory Committee on Gulf War Veterans' Illnesses noted that, while the oil well fires were burning, numerous U.S. and international agencies performed extensive air monitoring; these groups included a U.S. Interagency Air Assessment team comprised of scientists from the Environmental Protection Agency, the National Oceanographic and Atmospheric Administration, and the Department of Health and Human Services; and a group of scientists from twelve countries engaged in a data-collection effort overseen by the World Meteorological Organization. The Presidential Advisory Committee stated that ''[a]ll groups found that levels of nitrogen oxides, carbon monoxide, sulfur dioxide, hydrogen sulfide, other pollutant gases, and [PAHs] were lower than anticipated and did not exceed those seen in urban air in a typical U.S. industrial city.'' *Presidential Advisory Committee on Gulf War Veterans' Illnesses: Final Report* (Washington, DC:

U.S. Government Printing Office, December 1996). The Presidential Advisory Committee further noted that biological samples taken from persons deployed in the vicinity of the oil-well fires generally revealed lower levels of volatile organic compounds (VOCs), polycyclic aromatic carbons, and lead than in reference populations located elsewhere, except in the case of firefighters, who had significantly elevated levels of VOCs in comparison to the reference population.

NAS's finding linking oil-well-fire smoke and lung cancer was based primarily on studies of workers exposed to engine exhaust on the job and to civilians exposed to ''smog'' and indoor air pollution from heaters and stoves in the cities in which they dwelled. Health effects from these relatively long-term exposures may not be relevant to effects from short-term but intense exposures experienced by some veterans of the 1991 Gulf War who became heavily covered with fallout from oil well fires.

Apart from the oil-well fires, exposure to combustion products could also have occurred through more routine operations that involve burning fuels. The 1996 Final Report of the Presidential Advisory Committee stated that ''[o]perating the vehicles and machinery used in the Gulf War involved exposure to petroleum-based material,'' and that ''[p]etroleum fuels also were used for burning wastes and trash, dust suppression, and fueling stoves and tent heaters. The Presidential Advisory Committee stated that ''none of these uses is unique to the Gulf War,'' but that such uses probably led to increased petroleum vapor and combustion product exposures. With respect to the use of heaters, the Committee noted that ''[b]urning leaded fuels indoors without proper ventilation—*e.g.*, heaters in tents—could have caused increased lead exposure,'' and that ''[k]erosene heaters, widely used in the United States, also could have been significant sources of exposure to nitric oxides, sulfur dioxide, inorganic combustion gases, carbon monoxide, and particles when used with inadequate ventilation.''

2. Gulf War Exposure to Hydrazine Rocket Propellants

In January 2005, VA's Under Secretary for Health formally requested DoD's Assistant Secretary of Defense for Health Affairs to provide all available information about possible exposures of U.S. service members to hydrazine rocket fuels during the 1991 Gulf War. DoD's response in an April 8, 2005, letter from the Assistant Secretary of Defense was that the best available information indicated it was unlikely there was any exposure to hydrazine among U.S. military personnel in the Gulf. U.S. missiles and other munitions did not employ hydrazine during the Gulf War. Also, investigations indicated Iraq had not switched to hydrazine as a propellant for Scud missiles. Accordingly, there was no basis upon which to conclude that U.S. veterans of the Gulf War were exposed to hydrazine from either U.S. or Iraqi missiles.

A very small number of personnel working with the U.S. Air Force F–16 aircraft might have had minimal exposure to hydrazine. F–16 aircraft are equipped with a sealed tank (bottle) of hydrazine as an emergency propellant to be employed in the event of engine stall. When employed, the hydrazine is consumed. F–16 squadrons deployed with spare bottles during the Gulf War. If used, the bottles would have been returned to the U.S., Europe, or Turkey to be refilled and shipped back. The Air Force has long been keenly aware of the potential health hazards of hydrazine, so refilling operations are conducted in a manner consistent with the strictest of occupational health standards.

DoD's August 1999 report, ''Information Paper: Inhibited Red Fuming Nitric Acid,'' concluded that the rocket fuel used by Iraqi forces in Scuds and several smaller missiles during the 1991 Gulf War was a type of kerosene and red fuming nitric acid (also known as IRFNA). DoD states that apparently Iraq had experimented with hydrazine rocket fuels including UDMH, however, it concluded that these fuels were not used during that conflict:

> The missile fuel that Iraq used in its older Soviet systems was a specially refined kerosene-like substance (called kerosene in the literature). Some improved missiles used UDMH in combination with IRFNA. The Soviet Union used UDMH in their Scuds, but we have no evidence that Iraq used UDMH.

Therefore, it is unlikely that any U.S. service members were exposed to hydrazine rocket fuels during the 1991 Gulf War.

B. VA Determination on Combustion Products and Hydrazines

Based upon the evidence currently available, VA has determined that a presumption of service connection is not warranted at this time for any disease based upon an association with exposure to combustion products or hydrazines during service in the Gulf War. This determination is based on the conclusion that current evidence does not establish that service in the Gulf War entailed exposures to combustion products that were unique to Gulf War service when compared to other military and civilian populations and that could be expected to produce the increased risk of adverse health effects based on the findings set forth in the NAS report. The best evidence currently available indicates that hydrazines were used in limited circumstances during the Gulf War and that hydrazine exposure generally would not have occurred. With respect to combustion products, although the 1991 oil well fires were the product of a unique event, the best evidence currently available indicates that they did not result in combustion-products exposures that were unique in kind or degree when compared to exposures incurred generally by other military and civilian populations as the result of ambient air pollution, vehicle exhaust, and other means. Currently available evidence further indicates that other potential means of exposure to combustion products, such as through proximity to vehicles, aircraft, or the use of fuel-based heaters, did not differ significantly in the Gulf War from similar exposures occurring in other military and civilian populations generally.

In the absence of unique exposures associated with Gulf War service that could be correlated to the increased risks of health effects discussed in the NAS report, a generally applicable presumption of service connection is not warranted based on exposure to combustion products or hydrazines in the Gulf War. The governing statute requires VA to establish presumptions when the Secretary determines that an illness is associated with exposure to substances or hazards ''known or presumed to be associated with service in the Southwest Asia Theater of operations during the Persian Gulf War.'' 38 U.S.C. 1118(b)(1)(B)(i).

VA has determined that hydrazines were used during the 1991 Gulf War only under extremely limited conditions, and, therefore, hydrazines are not substances or hazards ''associated with'' service in the 1991 Gulf War. Consequently, VA need not establish a presumption of service connection for any disease identified in the NAS report as associated with such exposure.

VA has determined that combustion products, the prevalence and use of which in the Gulf War did not differ significantly from the prevalence and use of such substances in other military and civilian populations, are not substances or hazards ''associated with'' service in the 1991 Gulf War, because they are not unique to such service. Consequently, VA need not establish presumptions of service connection for

any of the eight diseases that NAS associated with exposure to combustion products in its report.

This approach is similar to that taken in our notice concerning the 2002 NAS report on insecticides and solvents. Public Law 105–277 specifically directed NAS to consider combustion products, fuels, and propellants among the substances to which veterans may have been exposed in their service in the 1991 Gulf War. The statute does not specifically identify these agents as substances ''associated with'' such service. Although Congress directed NAS to consider them in its reports, the language and structure of the statute indicates that Congress delegated to VA the responsibility for determining, based on NAS reports and other available information, whether such substances were ''associated with'' Gulf War service for the purpose of establishing presumptions under the statute.

We conclude that the statutory phrase ''associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War'' is most reasonably construed to refer to a relationship between the substance or hazard and the specific circumstance of service in the Southwest Asia theater of operations during the Persian Gulf War, as distinguished from features of military or civilian life in general that are not unique to service in the Gulf War. The phrase ''associated with'' clearly connotes a direct relationship, and the requirement that the substance or hazard be associated with service at a particular time and place indicates an intent to distinguish between substances and hazards associated with general military or civilian life and those unique to service at the specified time and place. If civilian and military populations are commonly exposed to a substance, we believe it would be unreasonable to conclude that the substance is ''associated with'' service in the Persian Gulf during the Gulf War merely because it was present during such service. We do not believe that Congress intended VA to establish presumptions for the known health effects of all substances common to military or civilian life. Rather, the requirement that the substance be ''associated with'' Gulf War service makes clear that VA's task is to focus on the unique exposure environment in the Persian Gulf during the Persian Gulf War.

This reading of the statutory language comports with the clear purpose of both Public Law 105–277 and Public Law 105–368. Both statutes reflect the Government's commitment to addressing the unique health issues presented by Gulf War veterans, by establishing a process for identifying diseases and illnesses that may be associated with Gulf War Service. It is by now well known that many Gulf War veterans have reported a variety of similar symptoms that cannot presently be identified with a known diagnosis or cause and that were not considered ''diseases'' for the purposes of the statutes generally authorizing VA to pay compensation for service-connected disability or death due to disease or injury. Congress responded initially to that situation by authorizing VA to pay compensation for ''undiagnosed illness'' in such veterans. The process established by Public Law 105–277 and Public Law 105–368 reflects a further effort to bridge the existing gaps in medical and scientific knowledge and to ensure that Gulf War veterans may obtain compensation for diagnosed or undiagnosed illnesses that may have been caused by the unique exposures or hazards of service during the Gulf War. Establishing presumptions of service connection for illnesses associated with exposures or hazards specifically related to Gulf War service obviously would further that objective. In contrast, establishing presumptions of service connection for the exclusive benefit of Gulf War veterans based solely on the well-known health effects of exposures shared in common with the general veteran population would not significantly further the purposes of those statutes. Moreover, establishing such presumptions would create significant inequities in the veterans' benefits system that Congress could not have intended.

Public Law 105–277 requires VA to establish presumptions of service connection, when the statutory requirements are met, exclusively for veterans who served in the Southwest Asia theater of operations during the Persian Gulf War. If the statute were construed to require presumptions based on exposure in the Persian Gulf War to substances to which other veterans serving at other times and places are commonly exposed at similar levels, it would raise significant concerns of fairness and reasonableness. For example, veterans exposed or presumably exposed to combustion products during the Gulf War might be entitled to presumptive service connection for certain diseases associated with such exposure, while veterans who served stateside and had equal or greater combustion product exposure would not be entitled to presumptive service connection for those diseases. The fact that most service members, and most civilians, routinely incur some degree of background exposure to the substances NAS considered further underscores the arbitrariness that would attach to establishing presumptions for a limited class of veterans based on such common exposures. Apart from the fact that it is generally unnecessary to establish presumptions of service connection for health effects that are well documented in the medical literature, establishing presumptions applicable only to a small percentage of the veteran population potentially exposed to the relevant substances would have significant adverse effects on the veterans benefits system. Providing by statute and regulation for the disparate treatment of similarly situated veterans would substantially undermine confidence in the objectivity and fairness of the veterans benefits system. Additionally, establishing different adjudicative rules for the claims of similarly situated veterans without any reasoned basis for the distinction would undoubtedly cause confusion to the VA personnel responsible for deciding claims, as well as to veterans and their representatives in presenting and supporting their claims.

We do not believe that Congress intended VA to establish presumptions unique to Gulf War veterans based on the well-known health effects of exposures common to military and civilian life outside the Gulf War theater of operations. As explained above, the language and purpose of Public Law 105–277 and Public Law 105–368 indicate that Congress did not intend such a result, and we believe it is reasonable to presume that Congress did not intend arbitrary or unfair distinctions. We note that statutes generally must be construed to avoid serious constitutional concerns. *See Edward J. DeBartolo Corp.* v. *Florida Gulf Coast Building & Construction Trades Council,* 485 U.S. 568, 575 (1988). We cannot say it is beyond Congress' power to establish presumptions exclusively for Gulf War veterans based on exposures not known to differ significantly from service outside the Gulf War. However, the apparent unfairness, in our view, of that result supports the conclusion that Congress did not intend such a result.

We recognize that Public Law 105–277 and Public Law 105–368 both required NAS to consider the health effects of exposure to fuels, combustion products, and propellants as part of its investigations of illnesses potentially associated with Gulf War service. However, the direction to consider those substances does not compel the

conclusion that those substances, considered in isolation, are themselves agents ''known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War'' for purposes of VA's duty to establish presumptions of service connection. Section 1603 of Public Law 105–277 describes the scope of NAS' inquiry. Section 1603(c)(1) directs NAS to ''identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia Theater of operations during the Persian Gulf War may have been exposed by reason of such service.'' Section 1603(d) of that statute provides that, in identifying substances to which Gulf War veterans ''may have been exposed,'' NAS will consider, among other things, oil fire byproducts. In contrast, section 1602 of Public Law 105–277 does not direct the Secretary to establish presumptions of service connection for the health effects of every substance to which Gulf War veterans ''may have been exposed,'' but requires presumptions only for the health effects of exposure to substances known or presumed to be ''associated with'' service in the Gulf War. Congress used different language in section 1602 and 1603 of Public Law 105–277, and we must conclude that the different language was intended to have different meanings. *See Bank of America National Trust & Savings Ass'n* v. *203 N. LaSalle St. Partnership*, 526 U.S. 434, 450 (1999); *Russello* v. *United States*, 464 U.S. 16, 23 (1983). Congress reasonably defined the scope of NAS' inquiry broadly, to include consideration of all substances to which veterans may have been exposed during the Gulf War, irrespective of whether the exposures were unique to Gulf War service or common to all service. In defining VA's regulation-writing obligations, however, Congress reasonably required VA to establish presumptions of service connection only for the health effects of substances that are ''associated with'' Gulf War service. As noted above, that limitation furthers Congress' purpose of establishing presumptions for the unique health concerns of Gulf War veterans and also avoids the inequity of establishing presumptions exclusively for Gulf War veterans based on exposures that are common to most veterans.

Our conclusion that the hydrazines and combustion products in question, in isolation, cannot at this time be determined to be ''associated with'' Gulf War service is not intended to suggest that they are irrelevant to further investigations of Gulf War veterans' health or that they may not in any circumstance form the basis for presumptions of service connection under Public Law 105–277. In the event future evidence links any illnesses to a combination of exposures associated with Gulf War service, whether or not including exposure to fuels, combustion products, and propellants, VA may establish presumptions of service connections for such illnesses pursuant to Public Law 105–277.

This determination also in no way prevents veterans from obtaining service connection for the health effects discussed in the NAS report where the potential for above-normal exposures was present in service. Under established current procedures, VA develops and considers evidence concerning events or aspects of service that may contribute to the incurrence of an illness. Accordingly, if a veteran's occupation in service, such as a firefighter or mechanic, entailed above-normal exposure to combustion products, VA will give due consideration to that unique exposure in determining whether service connection is warranted for a health effect known to be associated with such exposure. Similarly, if a veteran served in a role that may have involved exposure to hydrazines, VA will evaluate that factor in determining whether service connection is warranted for a disease associated with such exposure. These standards apply to claims by veterans of any period of service, and are not dependent upon any presumption of service connection. A presumption of service connection is not needed for the purpose of establishing a link between exposure to combustion products or hydrazines and any disease identified in the NAS report as associated with such exposures, because those health effects are generally well known and, in any event, the NAS report itself provides significant additional evidence of such an association. Accordingly, the determination not to establish a generally applicable presumption based on the NAS report will not preclude the grant of benefits to any individual whose service entailed the type of exposure NAS found to be associated with an increased risk of disease incurrence.

V. Conclusion

After careful review of the findings of the 2004 NAS report, ''Gulf War & Health Vol. 3: Fuels, Combustion Products, and Propellants,'' and other pertinent information including reports from DoD on potential exposure of U.S. service members, the Secretary has determined that the scientific evidence presented in the 2004 NAS report and other information available to the Secretary indicates that no new presumption of service connection is warranted for any of the illnesses described in the 2004 NAS report.

Approved: August 21, 2008.

James B. Peake,

Secretary of Veterans Affairs.

[FR Doc. E8–19971 Filed 8–27–08; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Executive Committee to the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will meet October 6–7, 2008, at the Marriott West Chase, Houston, Texas. The sessions will begin at 8 a.m. each day and end at 4:30 p.m. on October 6 and at noon on October 7. The meeting is open to the public.

The NAC consists of 63 national organizations and advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities within VA health care facilities. The Executive Committee consists of 18 representatives from the NAC member organizations.

On October 6, agenda topics will include: NAC goals and objectives, minutes of April 2008 NAC meeting, Veterans Health Administration update, VAVS update on the Voluntary Service program's activities since the 2008 NAC annual meeting, Parke Board update, evaluations of the 2008 NAC annual meeting and plans for the 2009 NAC annual meeting (to include workshops and plenary sessions). On October 7, agenda topics will include: Recommendations from the 2008 NAC annual meeting, subcommittee reports, standard operating procedure revisions, 2010 NAC annual meeting planning, and new business.

No time will be allocated at this meeting for receiving presentations from the public. However, interested persons may either attend or file statements with the Committee. Written statements may be filed either before the meeting or within 10 days after the meeting and addressed to: Ms. Laura Balun,

Designated Federal Officer, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Balun can be contacted by phone at (202) 461–7300.

Dated: August 21, 2008.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E8–19841 Filed 8–27–08; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html.* Some laws may not yet be available.

H.R. 4040/P.L. 110–314

Consumer Product Safety Improvement Act of 2008 (Aug. 14, 2008; 122 Stat. 3016)

H.R. 4137/P.L. 110–315

Higher Education Opportunity Act (Aug. 14, 2008; 122 Stat. 3078)

H.R. 6432/P.L. 110–316

To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the animal drug user fee program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007, and for other purposes. (Aug. 14, 2008; 122 Stat. 3509)

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