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WHEN: Tuesday, March 18, 2008
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30593; Amdt. No. 3256]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 25, 2008. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 25, 2008.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located;
3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or
4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the SIAPs, the associated Takeoff Minimums, and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure before adopting these SIAPs, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on Febuary 8, 2008.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 13 MAR 2008

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Effective 10 APR 2008

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Harrisburg, IL, Harrisburg-Raleigh, RNAV (GPS) RWY 24, Amdt 1
Harrisburg, IL, Harrisburg-Raleigh, Takeoff Minimums and Obstacle DP, Orig
Oakland, MD, Garrett County, RNAV (GPS) RWY 9, Orig
Oakland, MD, Garrett County, RNAV (GPS) RWY 27, Orig
Oakland, MD, Garrett County, Takeoff Minimums and Obstacle DP, Orig
Austin, MN, Austin Muni, ILS OR LOC RWY 35, Orig
Austin, MN, Austin Muni, RNAV (GPS) RWY 35, Orig
Cloquet, MN, Cloquet Carlton County, RNAV (GPS) RWY 35, Orig
Cloquet, MN, Cloquet Carlton County, NDB RWY 35, Amdt 4
Marshall, MN, Southwest Minnesota Regional Marshall/Ryan Fld, ILS OR LOC RWY 12, Amdt 2
Marshall, MN, Southwest Minnesota Regional Marshall/Ryan Fld, RNAV (GPS) RWY 12, Orig
Marshall, MN, Southwest Minnesota Regional Marshall/Ryan Fld, VOR RWY 12, Amdt 8
Marshall, MN, Southwest Minnesota Regional Marshall/Ryan Fld, Takeoff Minimums and Obstacle DP, Amdt 2
Billings, MT, Billings Logan Intl, Takeoff Minimums and Obstacle DP, Amdt 5
Syracuse, NY, Syracuse Hancock Intl, ILS OR LOC RWY 10, Amdt 12
Wilson, NC, Wilson Industrial Air Center, RNAV (GPS) RWY 3, Amdt 1
Wilson, NC, Wilson-Industrial Air Center, RNAV (GPS) RWY 9, Amdt 1
Wilson, NC, Wilson-Industrial Air Center, RNAV (GPS) RWY 15, Amdt 1
El Reno, OK, El Reno Regional, RNAV (GPS) RWY 17, Orig
El Reno, OK, El Reno Regional, RNAV (GPS) RWY 35, Orig
El Reno, OK, El Reno Regional, VOR/DME RWY 35, Amdt 2
El Reno, OK, El Reno Regional, Takeoff Minimums and Obstacle DP, Orig
Woodward, OK, West Woodward, NDB RWY 17, Amdt 3, CANCELLED
Clarion, PA, Clarion County, RNAV (GPS) RWY 6, Amdt 1
Clarion, PA, Clarion County, RNAV (GPS) RWY 24, Amdt 1
Grove City, PA, Grove City, VOR-A, Amdt 6
Grove City, PA, Grove City, VOR/DME RNAV OR GPS RWY 10, Amdt 2, CANCELLED
Grove City, PA, Grove City, VOR/DME RNAV OR GPS RWY 28, Amdt 2, CANCELLED
Grove City, PA, Grove City, RNAV (GPS) RWY 10, Orig
Grove City, PA, Grove City, RNAV (GPS) RWY 28, Orig
Charleston, SC, Charleston AFB/Intl, ILS OR LOC RWY 33, Amdt 6
Charleston, SC, Charleston AFB/Intl, ILS OR LOC RWY 15, Amdt 22, ILS RWY 15 (CAT II)
St George, SC, St George, RNAV (GPS) RWY 5, Orig
St George, SC, St George, VOR/DME-A, Amdt 2
St George, SC, St George, Takeoff Minimums and Obstacle DP, Orig
Milbank, SD, Milbank Municipal, Takeoff Minimums and Obstacle DP, Orig
Corpus Christi, TX, Corpus Christi Intl, LOC RWY 31, Amdt 7
Corpus Christi, TX, Corpus Christi Intl, Takeoff Minimums and Obstacle DP, Amdt 1
Laredo, TX, Laredo Intl, VOR OR TACAN RWY 32, Amdt 10A
Tooele, UT, Bolinder Field-Tooele Valley, ILS OR LOC/DME RWY 17, Orig
Tooele, UT, Bolinder Field-Tooele Valley, RNAV (GPS) RWY 17, Amdt 1
Deer Park, WA, Deer Park, RNAV (GPS) RWY 34, Orig
Deer Park, WA, Deer Park, NDB-A, Amdt 2
Charleston, WV, Yeager, ILS OR LOC RWY 5, Amdt 6
Janesville, WI, Southern Wisconsin Regional, ILS OR LOC RWY 32, Amdt 1
Janesville, WI, Southern Wisconsin Regional, Takeoff Minimums and Obstacle DP, Orig

Effective 05 JUN 2008

Glendale, AZ, Glendale Muni, RNAV (GPS) RWY 1, Orig-A
Oakland, CA, Metropolitan Oakland Intl, ILS OR LOC RWY 11, Amdt 5A
Willows, CA, Willows-Glenn County, VOR RWY 34, Amdt 5, CANCELLED
Quakertown, PA, Quakertown, VOR RWY 29, Amdt 1, CANCELLED

Effective 31 JUL 2008

Chico, CA, Chico Muni, VOR RWY 13L, Amdt 9B, CANCELLED
Eureka, CA, Murray Field, VOR/DME RNAV RWY 11, Amdt 6A, CANCELLED

The FAA published an Amendment in Docket No. 30589, Amdt No. 3253 to Part 97 of the Federal Aviation Regulations (Vol 73, FR No. 16, Page 4073 dated Thursday, January 24, 2008) under section 97.33, effective March 13, 2008, which is hereby rescinded as follows:

Seattle, WA, Boeing Field/King County Intl, RNAV (GPS) Z RWY 13R, Orig-A

The FAA published an Amendment in Docket No. 30591, Amdt No. 3254 to Part 97 of the Federal Aviation Regulations (Vol 73, FR No. 27, Page 7463 dated Friday, February 08, 2008) under section 97.29 effective February 14, 2008, which is hereby corrected to read as follows:

Omaha, NE, Eppley Airfield, ILS OR LOC RWY 32L, Amdt 1
Omaha, NE, Eppley Airfield, ILS OR LOC/DME RWY 14L, Amdt 1
Omaha, NE, Eppley Airfield, ILS OR LOC/DME RWY 14R, ILS RWY 14R (CAT II), ILS RWY 14R (CAT III), Amdt 4
Omaha, NE, Eppley Airfield, RNAV (GPS) RWY 14L, Amdt 1
Omaha, NE, Eppley Airfield, Takeoff Minimums and Obstacle DP, Amdt 5

[FR Doc. E8–2861 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30594; Amdt. No. 3257]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes in the National Airspace System, such as the commissioning of new navigational facilities, adding of new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 25, 2008. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 25, 2008.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs are available online free of charge. Visit *http://nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125), telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P-NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on Febuary 8, 2008.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
01/31/08	VA	DUBLIN	NEW RIVER VALLEY	8/3193	ILS RWY 6, AMDT 4
02/01/08	NE	OMAHA	EPPLEY AIRFIELD	8/3311	ILS OR LOC RWY 32L, AMDT 1
02/01/08	OH	DAYTON	DAYTON INTL	8/3324	ILS OR LOC RWY 24R, AMDT 7
02/06/08	ME	MILLINOCKET	MILLINOCKET MUNI	8/3814	LOC RWY 29, ORIG-B
02/06/08	ME	MILLINOCKET	MILLINOCKET MUNI	8/3815	VOR OR GPS-A, AMDT 10A
02/06/08	ME	MILLINOCKET	MILLINOCKET MUNI	8/3816	NDB OR GPS RWY 29, AMDT 3A
02/05/08	CO	DENVER	DENVER INTL	8/3609	ILS RWY 25, AMDT 2
02/01/08	IL	CHICAGO	CHICAGO O'HARE INTL	8/3306	ILS OR LOC RWY 9R, AMDT 8
02/05/08	IL	CHICAGO	CHICAGO O'HARE INTL	8/3591	ILS OR LOC RWY 4R, AMDT 6G
02/04/08	FL	ORLANDO	EXECUTIVE	8/3524	VOR/DME RWY 25, AMDT 2A
02/04/08	FL	ORLANDO	EXECUTIVE	8/3525	RNAV (GPS) RWY 25, ORIG-A
02/04/08	FL	ORLANDO	EXECUTIVE	8/3526	LOC BC RWY 25, AMDT 21A

[FR Doc. E8–2862 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2008–P–0090] (formerly Docket No. 2006P–0393)

Food Labeling: Health Claims; Soluble Fiber From Certain Foods and Risk of Coronary Heart Disease

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the health claim regulation entitled ''Soluble fiber from certain foods and risk of coronary heart disease (CHD)'' to add barley betafiber as an additional eligible source of beta-glucan soluble fiber. Barley betafiber is the ethanol precipitated soluble fraction of cellulase and alpha-amylase hydrolyzed whole grain barley flour. FDA is taking this action in response to a health claim petition submitted by Cargill, Inc. FDA previously concluded that there was significant scientific agreement that a claim characterizing the relationship between beta-glucan soluble fiber of certain whole oat and whole grain barley products and CHD risk is supported by the totality of publicly available scientific evidence. Based on the totality of publicly available scientific evidence, FDA now has concluded that in addition to certain whole oat and whole grain barley products, barley betafiber is also an appropriate source of beta-glucan soluble fiber. Therefore, FDA is amending the health claim regulation entitled ''Soluble fiber from certain foods and risk of CHD'' to include barley betafiber as another eligible source of beta-glucan soluble fiber.

DATES: This interim final rule is effective February 25, 2008. Submit written or electronic comments by May 12, 2008.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2008–P–0090 (formerly Docket No. 2006P–0393), by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

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

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

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN

number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

FOR FURTHER INFORMATION CONTACT: Jillonne Kevala, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1450.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Nutrition Labeling and Education Act of 1990

The Nutrition Labeling and Education Act of 1990 (the 1990 amendments) (Public Law 101–535) amended the Federal Food, Drug, and Cosmetic Act (the act) in a number of important ways. One aspect of the 1990 amendments was that they clarified FDA's authority to regulate health claims on food labels and in food labeling.

FDA (we) issued several new regulations in 1993 that implemented the health claim provisions of the 1990 amendments. Among these were 21 CFR 101.14, *Health claims: general requirements* (58 FR 2478, January 6, 1993) and § 101.70 (21 CFR 101.70), *Petitions for health claims* (58 FR 2478), which set out the general requirements for the authorization and use of health claims and established a process for petitioning the agency to authorize health claims about substance-disease relationships and set out the types of information that any such petition must include. These regulations became effective on May 8, 1993.

When implementing the 1990 amendments, FDA also conducted a review of evidence for a relationship between dietary fiber and cardiovascular disease (CVD). Based on this review, the agency concluded that the available scientific evidence did not justify authorization of a health claim relating dietary fiber to reduced risk of CVD (58 FR 2552, January 6, 1993) (1993 dietary fiber and CVD health claim final rule). However, FDA did conclude there was significant scientific agreement that the totality of publicly available scientific evidence supported an association between types of foods that are low in saturated fat and cholesterol and that naturally are good sources of soluble dietary fiber (i.e., fruits, vegetables, and grain products) and reduced risk of CHD[1]. Therefore, FDA authorized a health claim about the relationship between diets low in saturated fat and cholesterol and high in vegetables, fruit, and grain products that contain soluble fiber and a reduced risk of CHD (21 CFR 101.77; 58 FR 2552 at 2572). In the 1993 dietary fiber and CVD health claim final rule, FDA commented that if a manufacturer could document with appropriate evidence that consumption of the type of soluble fiber in a particular food has the effect of lowering blood low density lipoprotein (LDL) cholesterol, and has no adverse effects on other heart disease risk factors (e.g., high density lipoprotein cholesterol), it should petition for authorization of a health claim specific for that particular dietary fiber-containing food (58 FR 2552 at 2567).

B. Soluble Fiber from Certain Foods and Risk of CHD Health Claim (21 CFR 101.81)

In 1995, FDA received a petition for a health claim on the relationship between oat bran and rolled oats and reduced risk of CHD. FDA concluded there was significant scientific agreement that the totality of publicly available scientific evidence supported the relationship between consumption of whole oat products and reduced risk of CHD. FDA further concluded that the type of soluble fiber found in whole oats, i.e., beta-glucan soluble fiber, is the component primarily responsible for the hypocholesterolemic effects associated with consumption of whole oat foods as part of a diet that is low in saturated fat and cholesterol (62 FR 3584 at 3597 and 3598, January 23, 1997). As such, the final rule authorized a health claim relating the consumption of beta-glucan soluble fiber in whole oat foods, as part of a diet low in saturated fat and cholesterol, and reduced risk of CHD (the 1997 oat beta-glucan health claim final rule). The source of beta-glucan soluble fiber in foods bearing this health claim had to be one of three eligible whole oat products; i.e., oat bran, rolled oats, or whole oat flour (see § 101.81(c)(2)(ii)(A)). In the 1997 oat beta-glucan health claim final rule, FDA anticipated the likelihood that other sources and types of soluble fibers could also affect blood lipid levels, and thus, may reduce heart disease risk (62 FR 3584 at 3587). At that time, FDA considered structuring the final rule as an umbrella regulation authorizing the use of a claim for ''soluble fiber from certain foods'' and risk of CHD. Such action would have allowed flexibility in expanding the claim to other specific food sources of soluble fiber when consumption of those foods has been demonstrated to help reduce the risk of heart disease. However, the agency concluded that it was premature to do so because FDA had not reviewed the totality of evidence on other, non-whole oat sources of soluble fiber (62 FR 3584 at 3588).

The agency amended § 101.81 (21 CFR 101.81), in response to a health claim petition to add a health claim relating soluble fiber from psyllium seed husk and CHD risk (63 FR 8103, February 18, 1998). At this time, FDA also modified the heading in § 101.81 from ''* * * Soluble fiber from whole oats and risk of coronary heart disease'' to ''* * * Soluble fiber from certain foods and risk of coronary heart disease (CHD)'' (63 FR 8103). FDA has also amended § 101.81, in response to health claim petitions, to include oatrim, whole grain barley, and certain dry milled barley grain products as eligible sources of beta-glucan soluble fiber. In 2002, FDA amended § 101.81 to add oatrim, which is the soluble fraction of alpha-amylase hydrolyzed oat bran or whole oat flour, as an eligible source of beta-glucan soluble fiber (67 FR 61733, October 2, 2002), and finally, FDA amended § 101.81 to add whole grain barley and certain dry milled barley grain products as eligible sources of beta-glucan soluble fiber in 2005 (70 FR 76150, December 23, 2005).

II. Petition and Grounds

A. The Petition

Cargill, Inc. (petitioner), submitted a health claim petition to FDA on June 20, 2006, under section 403(r)(4) of the act (21 U.S.C. 343(r)(4)). The petition requested that the agency expand the ''Soluble fiber from certain foods and risk of coronary heart disease health claim'' (§ 101.81) to include ''barley betafiber'' (described in section II.B of this document) as an eligible food ingredient source of beta-glucan soluble fiber in addition to the oat and whole grain and dry milled barley ingredients now listed (Ref. 1). On September 28, 2006, the agency notified the petitioner that it had completed its initial review of the petition and that the petition was

[1] Cardiovascular disease means diseases of the heart and circulatory system. Coronary heart disease, one form of cardiovascular disease, refers to diseases of the heart muscle and supporting blood vessels.

being filed for further action in accordance with section 403(r)(4) of the act. If the agency does not act, by either denying the petition or issuing a proposed regulation to authorize the health claim, within 90 days of the date of filing for further action, the petition is deemed to be denied unless an extension is mutually agreed upon by the agency and the petitioner (section 403(r)(4)(A)(i) of the act and § 101.70(j)(3)(iii)). The petitioner and FDA subsequently mutually agreed to extend the deadline for the agency's decision on the petition to March 6, 2008. The petitioner also requested that FDA issue an interim final rule by which labeling of foods that contain ''barley betafiber'' in appropriate amounts could bear the health claim prior to publication of a final rule.

B. Nature of the Substance

The substance that is the subject of the oat/barley portion of current § 101.81 is beta-glucan soluble fiber from the specific oat and barley food products listed in § 101.81(c)(2)(ii)(A). Current § 101.81(c)(2)(ii)(A) has been amended twice previously to list additional oat or barley food products as eligible sources (67 FR 61773 and 70 FR 76150). Similar to these previous actions, FDA is now, in response to Cargill's health claim petition, amending § 101.81(c)(2)(ii)(A) to list barley betafiber as an eligible source of barley beta-glucan soluble fiber.

The petition states that barley betafiber is a concentrated barley beta-glucan soluble fiber product derived from whole barley flour. The petitioner's description of the barley betafiber manufacturing process reflects information contained in the petitioner's patent entitled ''*Improved Dietary Fiber Containing Materials Comprising Low Molecular Weight Glucan*'' (*World Intellectual Property Organization, International* Publication Number WO 2004/086878 A2) (Ref. 2) and a report of an expert panel on the generally recognized as safe (GRAS) status of barley betafiber commissioned by the petitioner (Ref. 3). The patent and the GRAS status report provide information on multiple variations of procedures for manufacturing concentrated barley beta-glucan soluble fiber products; these procedures differ from the manufacturing procedures for producing the unique barley betafiber substance that is the subject of the petition. Further, the clinical trial reported in the petition tested two different barley beta-glucan soluble fiber concentrates—a high molecular weight concentrate and a low molecular weight concentrate. The petitioner specified that the barley betafiber product, which is the subject of the petition, is only the low molecular weight concentrate studied in the clinical trial (Ref. 4). FDA was not satisfied that the information in the petition was sufficiently specific in describing the manufacturing process for the unique barley betafiber product for which there is scientific evidence to permit a showing that the product is comparable in cholesterol-lowering ability to the other oat and barley food products listed in current § 101.81(c)(2)(ii)(A). Discussion between the agency and the petitioner resulted in the description of the barley betafiber manufacturing process presented in the following paragraph and in final § 101.81(c)(2)(ii)(A)(*6*) (Refs. 2 through 5).

Barley betafiber is produced from an aqueous slurry of whole grain barley flour, starting with addition of an exogenous grain liquefying enzyme preparation with cellulase and alpha-amylase activity, derived from *Bacillus amyloliquefaciens*. The cellulase activity of the enzyme preparation acts on the beta-glucan soluble fiber in barley flour, since beta-glucan is a type of cellulose, and the alpha-amylase activity of the enzyme preparation acts on the starch in the barley flour. The temperature of the slurry is kept at or above the gelatinization temperature of the barley starch but below cellulase enzyme inactivation temperature; i.e., about 65° C, for about 30 to 60 minutes, to facilitate a partial hydrolysis of both the beta-glucan soluble fiber and starch. The pH of the slurry is kept in the range of about 5 to 7. When the cellulase enzymatic hydrolysis of barley flour has modified the beta-glucan soluble fiber to the desired extent, the cellulase activity of the enzyme preparation is heat inactivated. After the cellulase activity of the enzyme preparation has been deactivated, an exogenous thermo-stable amylolytic enzyme is added to the barley flour slurry for continued hydrolysis of starch molecules at the higher temperature. The slurry is held at the higher temperature until substantially all the starch has been hydrolyzed. A clear aqueous extract, which contains barley betafiber and the sugars and dextrins resulting from substantial hydrolysis of starch is then separated from insoluble material by centrifugation. Barley betafiber is precipitated from the aqueous extract supernatant with ethanol to separate it from other soluble components (i.e., substantially hydrolyzed starch, protein, lipids and other minor components) that remain suspended in the aqueous extract supernatant. The resultant barley betafiber precipitate is then dried and milled. The molecular weight range of barley betafiber produced by this procedure is 120 to 400 kilodaltons (Refs. 2, 3, and 5). The molecular weight range of barley betafiber is substantially reduced from that of native barley beta-glucan soluble fiber. The molecular weight range of native barley beta-glucan soluble fiber has been reported to range from about 500 to 3,330 kilodaltons depending upon the cultivars and applied extraction procedures, although lower molecular weight values of 80 to 300 kilodaltons have also been reported (Ref. 1). In final § 101.81(c)(2)(ii)(A)(*6*), FDA defines barley betafiber by its manufacturing process, as follows ''*Barley betafiber*. Barley betafiber is the ethanol precipitated soluble fraction of cellulase and alpha-amylase hydrolyzed whole grain barley. Barley betafiber is produced by hydrolysis of whole grain barley flour, as defined in paragraph (c)(2)(ii)(A)(*5*) of this section, with a cellulase and alpha-amylase enzyme preparation, to produce a clear aqueous extract that contains mainly partially hydrolyzed beta-glucan and substantially hydrolyzed starch. The soluble, partially hydrolyzed beta-glucan is separated from the insoluble material by centrifugation, and after removal of the insoluble material, the partially hydrolyzed beta-glucan soluble fiber is separated from the other soluble compounds by precipitation with ethanol. The product is then dried, milled and sifted. Barley betafiber shall have a beta-glucan soluble fiber content of at least 70 percent on a dry weight basis.''

C. Review of Preliminary Requirements for a Health Claim

1. The Substance Is Associated With a Disease for Which the U.S. Population Is at Risk

CHD continues to be a disease that has a large impact on mortality and morbidity in the general adult U.S. population. As explained in the existing beta-glucan soluble fiber health claim (§ 101.81(b)), FDA recognizes the CHD risk reduction benefit of certain foods that are sources of soluble dietary fiber resulting from effects on lowering blood total and LDL cholesterol. Although age-adjusted CHD mortality rates in the United States had been steadily decreasing since approximately 1960, recent evidence has suggested that the decline in CHD mortality has slowed (Ref. 6). Heart disease has been recognized as the leading cause of death in the United States for at least the last 50 years (Ref. 6). Based on these facts,

FDA concludes that, as required in § 101.14(b)(1), CHD is a disease for which the U.S. population is at risk.

2. The Substance Is a Food

The substance of the health claim is beta-glucan soluble fiber from listed oat and barley sources. The petitioner requests an amendment to add barley betafiber to the list of eligible sources of beta-glucan soluble fiber. Barley betafiber is derived from whole barley flour. Barley flour is a commonly consumed human food and beta-glucan soluble fiber is a nutrient component of this food. Thus, the beta-glucan soluble fiber from barley betafiber, a processed whole barley flour product, is a ''substance'' as defined in § 101.14(a)(2). Health claim general requirements provide that where a substance is to be consumed at ''other than decreased dietary levels,'' the substance must contribute taste, aroma, nutritive value, or any other technical effect as listed in 21 CFR 170.3(o), and must retain that attribute when consumed at levels necessary to justify the claim (§ 101.14(b)(3)(i)). The level necessary to justify the claim is 0.75 g beta-glucan soluble fiber per serving. The term ''nutritive value'' is defined in § 101.14(a)(3) as ''a value in sustaining human existence by such processes as promoting growth, replacing lost essential nutrients, or providing energy.'' The petitioner provided several examples of food categories (bars, beverages, bread, breakfast cereals, cookies, crackers, instant rice, pasta, muffins, salad dressings, snack chips, soups, tortillas and taco shells, vegetarian patties/crumbles, and reduced fat yogurt) in which barley betafiber could be used as an ingredient at a maximum level of 3 grams (g) beta-glucan soluble fiber per serving. Beta-glucan soluble fiber at 0.75 to 3 g per serving contributes nutritive value because it provides a source of calories and soluble fiber. In addition to its role as a source of beta-glucan soluble fiber, barley betafiber also has technical effects, including food applications as a thickener (e.g., soups), texturizer (e.g., snack foods), humectant (e.g., retain moisture of tortillas), or fat replacer (e.g., dressings for salads). Therefore, FDA concludes that the preliminary requirement of § 101.14(b)(3)(i) is satisfied.

3. The Substance Is Safe and Lawful

Section 101.14(b)(3)(ii) requires that the substance be a food or a food ingredient or a component of a food ingredient whose use at the levels necessary to justify a claim has been demonstrated by the proponent of the claim, to FDA's satisfaction, to be safe and lawful under the applicable food safety provisions of the act. The petitioner asserts that the use of barley betafiber as a food ingredient is GRAS. The petitioner included in its health claim petition documentation of its 2003 GRAS self-determination for barley betafiber, which contains 70 percent or more pure barley beta-glucan soluble fiber as evidence that barley betafiber meets the safe and lawful requirement (Ref. 3). FDA also received a notice informing FDA that the petitioner determined, through scientific procedures, that the use of barley betafiber is GRAS. FDA issued a letter (Ref. 7) in response to this notice stating that the agency had no questions at the time regarding petitioner's conclusions that barley betafiber is GRAS under the intended conditions of use.

The 2003 Cargill GRAS self-determination stipulates that barley betafiber is obtained from food-grade whole grain barley flour by water extraction at elevated temperature, while starch is removed during the extraction process by treatment with enzymes that are GRAS for use in food manufacturing processes, specifically alpha-amylases from *Bacillus licheniformis* and *B. amyloliquefaciens*. The extracted barley betafiber is recovered by precipitation with denatured ethanol suitable for food production, and contains 70 percent or more beta-glucan, 2 to 12 percent protein, and less than 3 percent of each sugars, lipids, and inorganic salts. The basis of the safety determination relies on the fact that barley betafiber contains only native components of barley and is formed by the action of applied food-grade enzymes, residues, or processing aids.

In addition, barley is a traditional food with a long history of safe use, since at least 8,000 B.C. based on archeological discoveries (Ref. 3). In the Maghreb countries of Morocco, Algeria, Libya, and Tunisia, barley is used in a variety of traditional foods (bread, soup, porridge), resulting in an average intake of up to 172 g per person per day (Morocco). With this intake of barley, about 6 g per person per day of pure beta-glucan soluble fiber is consumed. The preparation of these traditional foods involves baking or boiling for longer periods of time, which ensures extraction of beta-glucan from its natural context (cell walls, complexes with proteoglycans). The physiological properties of beta-glucan as a dietary fiber may, therefore, be found in these traditional foods as is intended to be achieved with the addition to processed foods of barley beta-glucan concentrate.

The intended uses of barley betafiber listed as a food ingredient stated in the 2003 Cargill GRAS self-determination include the following food categories: Bars, beverages, bread (whole grain and specialty), breakfast cereals (ready to eat and cooked), cookies (lite), crackers (reduced fat), instant rice, macaroni products, muffins (reduced fat), salad dressings (lite), snack chips (reduced fat), soups, tortillas and taco shells, vegetarian patties/crumbles, and reduced fat yogurt. The maximum incorporation rate for each of these food applications is 3 g beta-glucan soluble fiber from barley betafiber per serving.

FDA concludes that the petitioners have satisfied the preliminary requirement of § 101.14(b)(3)(ii) to demonstrate, to FDA's satisfaction, that the use of beta-glucan soluble fiber from barley betafiber at levels necessary to justify the health claim is safe and lawful under the applicable food safety provisions of the act. The agency has not made its own determination regarding the GRAS status of barley betafiber or beta-glucan soluble fiber from barley betafiber. Furthermore, the agency notes that a regulation to authorize a health claim for a substance should not be interpreted as affirmation that the substance is GRAS.

III. Review of Scientific Evidence of the Substance-Disease Relationship

A. Basis for Evaluating the Relationship Between Beta-Glucan Soluble Fiber from Barley Betafiber and CHD

The types of data that FDA has recognized in previous CHD health claim evaluations as useful for assessing CHD risk reduction are: Coronary events (myocardial infarction, ischemia), cardiovascular death, atherosclerosis, high blood pressure, serum total cholesterol, and serum LDL cholesterol. FDA considers high blood pressure, serum total cholesterol, and serum LDL cholesterol levels to be the only currently validated surrogate measures for CHD risk (Ref. 8). Elevated levels of serum total and LDL cholesterol, a prerequisite for atherosclerotic disease, is a major modifiable risk factor in the development of CHD (Ref. 8). For these reasons, the agency based its original evaluation of the relationship between oat beta-glucan soluble fiber and CHD risk (62 FR 3584) and subsequent evaluations to add oatrim (67 FR 61773) and barley as eligible sources of beta-glucan soluble fiber (70 FR 76150) in the health claim, primarily on evidence for serum total and LDL cholesterol-lowering effects of beta-glucan soluble fiber containing food ingredients. As such, our evaluation of the evidence

supporting the petitioned request to extend the eligible barley sources to include barley betafiber (as described in section II.B of this preamble), focused on evidence from human randomized controlled trials of the effects of consuming beta-glucan soluble fiber from barley betafiber on blood lipids. This focus is consistent with existing § 101.81 in which FDA concluded that there is significant scientific agreement that the relationship between CHD risk and consumption of beta-glucan soluble fiber from certain oat and barley food ingredients is mediated primarily by the effect of the beta-glucan soluble fiber on serum lipids.

FDA's determination of significant scientific agreement that the totality of publicly available scientific evidence supports the relationship between beta-glucan soluble fiber from certain oat and barley foods and CHD risk is documented in rulemaking for § 101.81. When issuing the 1997 oat beta-glucan health claim final rule, the agency concluded that the beta-glucan soluble fiber component of oat products plays a significant role in the relationship between whole grain oats and the risk of CHD based, in part, on evidence that there is a dose response between the level of beta-glucan soluble fiber from whole oats and the level of reduction in serum LDL cholesterol, and evidence that intakes at or above 3 g per day were more effective in lowering serum lipids than lower intake levels (62 FR 3584 at 3585). In the 2002 and 2005 amendments to the health claim to add oatrim and whole grain and dry milled barley products, respectively, as eligible sources of beta-glucan soluble fiber, the agency considered evidence that beta-glucan soluble fiber from those sources had comparable cholesterol-lowering effects to that from the sources previously listed in § 101.81(c)(2)(ii)(A) as further support for FDA's previous determination that there is significant scientific agreement that a relationship exists between consumption of certain beta-glucan soluble fiber sources and reduced risk of CHD (67 FR 61773 at 61779 and 70 FR 76150 at 76155). Similarly, FDA considers that scientific evidence to establish that the cholesterol-lowering effects of beta-glucan soluble fiber from barley betafiber are comparable to the effects of beta-glucan soluble fiber from the oat/barley products in current § 101.81(c)(2)(ii)(A) builds on the substantial base of scientific evidence that already establishes significant scientific agreement for the association between consumption of the oat/barley products now listed and reduced risk of CHD. FDA's review of the evidence to support the petitioned amendment of the health claim regulation entitled ''Soluble fiber from certain foods and risk of CHD'' was conducted consistent with FDA published guidance on significant scientific agreement in the review of health claims (Ref. 9) and focused on evidence from intervention studies.

B. Assessment of Intervention Studies

This petition identified one relevant human randomized controlled trial of how consumption of beta-glucan soluble fiber from barley betafiber affects heart disease risk and serum lipid levels. A summary of this trial was included in the petition and subsequently published in a peer reviewed scientific journal (Ref. 4). FDA also evaluated reported results from randomized controlled trials of other types of beta-glucan concentrates, extracts, and gums (Refs. 10 through 19).

The study reported in Keenan et al. 2007 (Ref. 4) investigated the effects of consuming concentrated barley beta-glucan soluble fiber-enriched foods (fruit drink and corn flakes) on blood lipids in hypercholesterolemic men and women. The study was conducted as a randomized, double-blind, placebo-controlled, parallel arm study of five groups with 30 to 32 subjects per group. The study included a total of 155 hypercholesterolemic adult subjects, between 25 and 73 years of age, with baseline serum LDL cholesterol levels between 140 and 190 milligrams per deciliter (mg/dL). The subjects were instructed to follow a diet low in saturated and *trans* fatty acids (less than 10 percent kilocalories (kcals) per day) and to consume three servings of the concentrated barley beta-glucan soluble fiber-enriched test foods per day, one serving with each of three major meals. The concentrated barley beta-glucan soluble fiber-enriched test foods were formulated to provide either 3 or 5 g of beta-glucan soluble fiber per day; a placebo version of the test foods without added barley beta-glucan extracts was also used. Two concentrated barley beta-glucan soluble fiber products were used; one is the barley betafiber produced from the manufacturing process described in section II.B of this preamble, and was described in the study report as a low molecular weight (LMW) extract; the other concentrated barley beta-glucan soluble fiber product of the study was described as a high molecular weight (HMW) beta-glucan extract. The HMW barley beta-glucan extract was processed in a fashion similar to that for barley betafiber but omitted the cellulase enzymatic hydrolysis step, thus producing a concentrated source of barley beta-glucan soluble fiber with a molecular weight similar to that of the endogenous beta-glucan soluble fiber in barley grain from which it was derived.

Following a 4-week run-in period to adjust to the low saturated/*trans* fat diet, the subjects were randomly assigned to one of five treatment groups: placebo control, 3 g per day barley betafiber, 5 g per day barley betafiber, 3 g per day HMW beta-glucan extract, and 5 g per day HMW beta-glucan extract. Subjects consumed the test foods daily for 6 weeks. Consumption of 3 or 5 g beta-glucan per day from barley betafiber significantly lowered serum total cholesterol levels (6.0 percent and 9.9 percent, respectively) relative to the placebo control group. Consumption of 3 or 5 g beta-glucan per day from the HMW barley beta-glucan extract also significantly lowered serum total cholesterol (7.0 percent and 11.2 percent, respectively) relative to the placebo control group. Serum LDL cholesterol levels were significantly decreased in all active treatment groups. At the end of the 5-week intervention period, the mean serum LDL cholesterol level of the 3 g per day beta-glucan from barley betafiber group was 10 mg/dL lower than the mean serum LDL cholesterol level of the placebo control group, representing a 7.5 percent reduction in LDL cholesterol relative to the placebo control group. The reduction in mean serum LDL cholesterol for the 5 g per day beta-glucan from barley betafiber group relative to the placebo control group was 16 mg/dL or 12 percent. The reduction in mean serum LDL cholesterol for the 3 g per day HMW beta-glucan group was 12 mg/dL or 8 percent relative to the placebo control group. For the 5 g per day HMW beta-glucan group, the reduction in mean LDL cholesterol was 19 mg/dL or 13 percent relative to the placebo control group. There were no statistically significant differences between barley betafiber and the HMW barley beta-glucan extract groups, or between 3 g per day or 5 g per day beta-glucan groups, in the magnitude of the cholesterol lowering effects.

The magnitude of cholesterol-lowering reported by Keenan et al. (Ref. 4) for 3 and 5 g per day beta-glucan from barley betafiber is consistent with the magnitude of cholesterol-lowering observed with similar barley beta-glucan soluble fiber intake levels consumed as dry milled barley foods (70 FR 76150 at 76153). The randomized controlled trials with dry milled barley foods that FDA considered when previously

amending the health claim to add dry milled barley had reported mean serum LDL cholesterol reductions of between 10 and 19 mg/dL from barley beta-glucan intake levels of 3 to 8 g per day. Based on evidence from the randomized controlled trials of dry milled barley ingredients which FDA relied upon when adding barley products to the health claim, the data for barley betafiber from Keenan et al. are consistent with the expected magnitude of cholesterol-lowering from consumption of the barley products listed in current § 101.81(c)(2)(ii)(A)(*5*).

Clinical trial evidence of oat/barley beta-glucan extracts other than barley betafiber indicate that not all oat/barley beta-glucan extracts affect serum total and LDL cholesterol levels as consistently as does consumption of the intact oat and barley grain from which they have been extracted (Refs. 10 through 19). This indicates that some extraction processes negatively affect whatever characteristics of beta-glucan soluble fiber in whole grain oats and barley that are responsible for the cholesterol-lowering effect. Accordingly, data from trials of beta-glucan extracts and concentrates other than barley betafiber support FDA's previous position (62 FR 3584 at 3587) that oat and barley products will be added to the health claim as eligible sources of beta-glucan soluble fiber only on a case-by-case basis when FDA is presented with adequate supporting evidence.

Evidence from the randomized controlled trial reported by Keenan et al. (Ref. 4) indicates that beta-glucan soluble fiber from barley betafiber, prepared as described in section II of this preamble, is comparable to beta-glucan soluble fiber from the oat and barley sources now included in current § 101.81 in regard to cholesterol-lowering properties. Evidence from randomized controlled trials of other oat or barley beta-glucan extracts indicate that some forms of processing of oat and barley grain to extract or concentrate beta-glucan can negatively affect whatever properties of oat and barley beta-glucan are responsible for the cholesterol-lowering effect. Therefore, results from Keenan et al. can not be extrapolated to beta-glucan extracts other than the specific products tested in the trial. Results from the Keenan et al. trial also demonstrate that the serum cholesterol-lowering effects were comparable for beta-glucan soluble fiber from barley betafiber (i.e., the LMW product in the Keenan et al. trial) and for the barley beta-glucan extract that was not subjected to beta-glucan hydrolysis (the HMW product in the Keenan et al. trial) (Ref. 4). This evidence demonstrates that the cholesterol-lowering ability of beta-glucan soluble fiber in barley betafiber is not affected by the process used in the manufacture of barley betafiber to reduce the molecular weight of the barley betafiber product.

IV. Decision to Amend the Health Claim

Available evidence demonstrates that foods enriched with beta-glucan soluble fiber from barley betafiber at levels sufficient to provide at least 3 g beta-glucan soluble fiber per day are effective in lowering serum LDL-cholesterol levels, which may reduce the risk of CHD. As noted previously, when issuing the 1997 oat beta-glucan health claim final rule the agency concluded that the beta-glucan soluble fiber component of oat products plays a significant role in the relationship between whole grain oats and the risk of CHD based, in part, on evidence that there is a dose response between the level of beta-glucan soluble fiber from whole oats and the level of reduction in serum LDL cholesterol, and evidence that intakes at or above 3 g per day were more effective in lowering serum lipids than lower intake levels (62 FR 3584 at 3585). The clinical trial results reported by Keenan et al. (Ref. 4) demonstrating the cholesterol-lowering effect of consuming beta-glucan soluble fiber from barley betafiber are consistent in magnitude with what would be expected based on the oat beta-glucan soluble fiber/cholesterol-lowering dose-response evidence, which was cited in the 1997 oat beta-glucan health claim final rule, and cholesterol-lowering effect of consuming beta-glucan soluble fiber from dry milled barley grain ingredients (70 FR 76150 at 76155). Thus, FDA concludes that the cholesterol-lowering effect of beta-glucan soluble fiber from barley betafiber is comparable to that of beta-glucan soluble fiber from whole grain oat and dry milled barley sources currently listed in § 101.81(c)(2)(ii)(A). FDA also concludes that the scientific evidence supports a minimum daily effective intake of beta-glucan soluble fiber from barley betafiber the same as that which was previously found for whole oat and dry milled barley sources of beta-glucan soluble fiber, i.e., 3 g per day. Therefore, FDA is amending § 101.81, by adding § 101.81(c)(2)(ii)(A)(*6*) to list barley betafiber as an eligible source of beta-glucan soluble fiber. Consistent with current § 101.81(c)(2)(i)(G)(*1*), the source of the 3 g or more per day of beta-glucan soluble fiber may be from whole oats or barley, including the barley betafiber source, or a combination of oats and barley eligible sources. In addition, consistent with the description of other oat and barley products listed in current § 101.81, amended § 101.81 will specify barley betafiber by the method of production as described in section II.B of this preamble. The agency is satisfied that the description of the method for producing barley betafiber appropriately characterizes the barley product being added to the regulation. Further, barley beta-glucan can be measured by the same quantitative analytical method as is currently specified in § 101.81(c)(2)(ii)(A) for the determination of oat beta-glucan and barley beta-glucan from whole grain barley and dry milled barley products. Based on the totality of the publicly available scientific evidence, FDA concludes there is significant scientific agreement, among experts qualified by scientific training and experience, for a claim about the relationship between certain beta-glucan soluble fiber sources and reduced risk of CHD. Thus, FDA is amending § 101.81(c)(2)(ii)(A) to include barley betafiber derived from whole barley flour, prepared as described in section II.B of this document, as an additional source of beta-glucan soluble fiber.

The requirement in § 101.81(c)(2)(iii)(A) states that a food bearing the claim on its label include one of the ingredients listed within § 101.81(c)(2)(ii)(A) and that the ingredient provide at least 0.75 gram of beta-glucan soluble fiber per reference amount customarily consumed (RACC) of the food product. This level is based on the minimum daily effective intake of beta-glucan soluble fiber from barley betafiber and is the same as that which was previously found for whole oat and dry milled barley sources of beta-glucan soluble fiber, i.e., 3 g per day. FDA arrived at a value of 0.75 gram beta-glucan soluble fiber per RACC based on a standard assumption that the daily dietary intake is divided over four eating occasions per day (three meals and a snack) (62 FR 3584 at 3592). Thus, adding barley betafiber as an additional eligible source of beta-glucan soluble fiber will further increase the type and number of qualifying food products and make it easier for consumers to select barley and oat products at four eating occasions per day. Thus, FDA is retaining under the ''Nature of the food eligible to bear the claim'' section of the codified text of this interim final rule, the criterion that foods eligible to bear the claim contain at least 0.75 gram of soluble fiber (§ 101.81(c)(2)(iii)(A)(*2*)).

There is strong consistent scientific evidence that diets high in saturated fat

and cholesterol are associated with elevated serum total and LDL cholesterol, and that elevated serum cholesterol levels are a major modifiable risk factor for CHD. Expert groups recommend lowering dietary saturated fat and cholesterol as a primary lifestyle change for reducing heart disease risk (Ref. 8). Comments to the 1997 oat beta-glucan health claim final rule expressed concern that a CHD risk claim that does not include a reference to a low saturated fat, low cholesterol diet may mislead consumers into thinking that the single food, e.g., oat products, would appear to be a ''magic bullet'' (62 FR 3584 at 3594). Further, based on the scientific evidence, the role of soluble fiber from whole oats in the diet is generally recognized as being of smaller magnitude in reducing CHD risk compared to consumption of a low saturated fat, low cholesterol diet. When issuing the 1997 oat beta-glucan health claim final rule, FDA concluded that although selection of foods with soluble fiber from whole oats is a useful adjunct to selection of diets low in saturated fat and cholesterol, in reducing CHD risk, it would not be in the best interest of public health nor consistent with the scientific evidence to imply that selecting diets with soluble fiber from whole oats is a substitute for consuming diets low in saturated fat and cholesterol (id.). Therefore, FDA required in the 1997 oat beta-glucan health claim final rule that the health claim statement include the phrase ''diets that are low in saturated fat and cholesterol and that include soluble fiber from * * *'' (§ 101.81(c)(2)(i)(A)). FDA reiterated this position and extended it to soluble fiber from listed barley products when the agency amended § 101.81 to add whole grain barley and certain dry milled barley products as eligible sources of beta-glucan soluble fiber in 2005 (70 FR 76150 at 76156).

Beta-glucan soluble fiber from barley betafiber functions comparably to beta-glucan soluble fiber from the listed oat and barley sources in current § 101.81(c)(2)(ii)(A) in its effect on reducing LDL and total cholesterol. Barley betafiber, as a source of beta-glucan soluble fiber, is a useful adjunct to selection of diets low in saturated fat and cholesterol to reduce CHD risk. Thus, the agency is requiring that the beta-glucan soluble fiber from barley betafiber health claim be subject to the requirements in § 101.81(c)(2)(i)(A). Including a reference to a low saturated fat, low cholesterol diet in the health claim will enable the public to understand the relative significance of the information in the context of a total daily diet (21 U.S.C. 343(r)(3)(A)(iii)).

V. Description of Amendments to the Soluble Fiber from Certain Foods and Risk of Coronary Heart Disease Health Claim Regulation

A. Nature of the Substance; Eligible Sources of Soluble Fiber

Section 101.81(c)(2)(ii) (nature of the substance) lists the types and sources of soluble fiber that have been demonstrated to FDA's satisfaction to have a relationship to a reduced risk of CHD. Section 101.81(c)(2)(ii)(A) lists beta-glucan soluble fiber from whole oat and barley sources, along with specifying an AOAC INTERNATIONAL method of analysis for beta-glucan soluble fibe, which will be used by FDA for verifying compliance. Section 101.81(c)(2)(ii)(A)(*1*) through (c)(2)(ii)(A)(*5*) identifies the whole oat and barley products that are eligible sources of beta-glucan, i.e., oat bran, rolled oats, whole oat flour, oatrim, whole grain barley, and dry milled barley.

FDA is amending § 101.81(c)(2)(ii)(A) by adding § 101.81(c)(2)(ii)(A)(*6*), which would specify barley betafiber as being the ethanol isolated, soluble fraction of cellulase and alpha-amylase hydrolyzed whole grain barley flour, with a beta-glucan content of at least 70 percent on a dry weight basis (dwb). Thus, § 101.81(c)(2)(ii)(A)(*6*) will read as follows ''*Barley betafiber.* Barley betafiber is the ethanol precipitated soluble fraction of cellulase and alpha-amylase hydrolyzed whole grain barley. Barley betafiber is produced by hydrolysis of whole grain barley flour, as defined in paragraph (c)(2)(ii)(A)(*5*) of this section, with a cellulase and alpha-amylase enzyme preparation, to produce a clear aqueous extract that contains mainly partially hydrolyzed beta-glucan and substantially hydrolyzed starch. The soluble, partially hydrolyzed beta-glucan is separated from the insoluble material by centrifugation, and after removal of the insoluble material, the partially hydrolyzed beta-glucan soluble fiber is separated from the other soluble compounds by precipitation with ethanol. The product is then dried, milled and sifted. Barley betafiber shall have a beta-glucan soluble fiber content of at least 70 percent on a dry weight basis.''

B. Nature of the Food Eligible to Bear the Claim

Section 101.81(c)(2)(iii)(A)(*2*) (nature of the food) currently states ''The food containing the oatrim from paragraph (c)(2)(ii)(A)(*4*) of this section shall contain at least 0.75 g of beta-glucan soluble fiber per reference amount customarily consumed of the food product;''

Because FDA is amending § 101.81 to add barley betafiber, FDA is amending § 101.81(c)(2)(iii)(A)(*2*) as follows ''The food containing the oatrim from paragraph (c)(2)(ii)(A)(*4*) of this section or the barley betafiber from paragraph (c)(2)(ii)(A)(*6*) of this section shall contain at least 0.75 g of beta-glucan soluble fiber per reference amount customarily consumed of the food product;''

C. Other Requirements

All other requirements in § 101.81(c)(1) through (c)(2)(i) and the optional information in § 101.81(d) will apply to the use of the health claim authorized in § 101.81 for barley betafiber-containing products.

D. Model Health Claims

This interim final rule to amend existing § 101.81(c)(2) does not affect the model health claims specified in paragraph (e) of § 101.81. Thus, the model health claims in § 101.81(e) apply to a claim about beta-glucan soluble fiber from barley betafiber and a reduced risk of CHD.

VI. Analysis of Impacts

FDA has examined the impacts of this interim final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this interim final rule is not a significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this interim final rule concerns voluntary claims, the agency certifies that the interim final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that

includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $127 million, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this interim final rule to result in any 1-year expenditure that would meet or exceed this amount.

FDA has identified the following three options regarding this petition: (1) Deny the petition; (2) authorize the petition (add only barley betafiber to the ''Soluble fiber from certain foods and risk of coronary heart disease health claim'' in § 101.81 (the soluble fiber and CHD health claim)); or (3) add barley betafiber to the soluble fiber-CHD health claim and also expand the scope of the claim to include all sources of soluble fiber. FDA concludes that authorizing the petition by adding barley betafiber to the soluble fiber and CHD health claim is the best option of those identified.

Option One: Deny the Petition

FDA can only define costs and benefits relative to a baseline. FDA usually selects the option of taking no action as the baseline because it helps readers identify the costs and benefits of actions that change the status quo. In this case, denying the petition would correspond to taking no action because it would imply no change in the soluble fiber and CHD health claim and thus the continuation of the status quo. By definition, the baseline itself has no costs or benefits. This does not mean that we ignore the costs and benefits of the baseline. Instead, it means that FDA expresses the costs and benefits of the baseline in how it calculates the costs and benefits of the other regulatory options.

Option Two: Authorize the Petition (Add Only Barley Betafiber to the Soluble Fiber and CHD Health Claim)

This option would allow producers who use barley betafiber to use the soluble fiber and CHD health claim on their product labels under certain conditions. Producers would only choose to change product labels or reformulate products if they believe that the benefits that they will derive from doing so are at least as great as the costs of making those changes. FDA has reviewed the data supplied in the petition and concludes that the claim is truthful and not misleading. If this interim final rule is finalized without change, FDA can be sure that to whatever extent producers use the claim, consumers will be in a better position, assuming that more information that is truthful and not misleading is always better for consumers. Based on this, FDA can conclude that adding barley betafiber to the soluble fiber and CHD health claim is better for social welfare than denying the petition.

Option Three: Add Barley Betafiber to the Soluble Fiber and CHD Health Claim and Also Expand the Scope of the Claim to Include All Sources of Soluble Fiber

This option would allow producers who use barley betafiber and all other sources of soluble fiber to use the soluble fiber and CHD health claim on their product labels under certain conditions rather than just listing specific sources of soluble fiber. Similar to option two, producers would only choose to change product labels or reformulate products if they believed that the benefits that they will derive from doing so are at least as great as the costs of making those changes. In addition, this option would reduce the future burden on manufacturers of petitioning FDA to use the soluble fiber and CHD health claim for additional sources of soluble fiber, and it would also reduce the agency's burden of evaluating each petition for each individual source of soluble fiber. However, by expanding the use of the claim to all sources of soluble fiber without reviewing the scientific data on each source, FDA would not be able to verify that the claim was being used under circumstances where it is truthful and not misleading to consumers. If the expanded claim was used on a product that did not reduce the risk of CHD, then the expanded claim could actually result in an increase in CHD. This would happen if consumers were misled into thinking that they were reducing their risk of CHD by consuming a product that actually did not reduce the risk of CHD. As a result, they might not take other beneficial steps that would decrease their risk of CHD.

FDA cannot conclude that the cost savings of option three outweigh the increased risk of a false or misleading claim being made under the expanded claim. Therefore FDA cannot conclude that option three is better for social welfare than option two. Moreover, the agency believes that expanding the soluble fiber and CHD health claim to all sources of soluble fiber without reviewing the scientific data supporting such a claim of CHD risk reduction for each individual source of fiber would be a failure to carry out our statutory responsibility under section 403(r)(3)(B) of the act to issue health claim regulations only when the agency determines that there is significant scientific agreement that the claim is supported by the totality of publicly available scientific evidence.

VII. Environmental Impact

The agency has determined under 21 CFR 25.32(p) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

FDA concludes that the labeling provisions of this interim final rule are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the food labeling health claim on the association between consumption of barley betafiber beta-glucan soluble fiber and CHD risk is a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (see 5 CFR 1320.3(c)(2)).

IX. Federalism

FDA has analyzed this interim final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule has a preemptive effect on State law. Section 4(a) of the Executive order requires agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Section 403A of the act (21 U.S.C. 343–1) is an express preemption provision. Section 403A(a)(5) of the act provides that ''* * * no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce—* * * any requirement respecting any claim of the type described in section 403(r)(1) of the act made in the label or labeling of food that is not identical to the requirement of section 403(r). * * *''

Currently, this provision operates to preempt States from imposing health claim labeling requirements concerning beta-glucan soluble fiber from barley betafiber and reduced risk of CHD because no such requirement had been

imposed by FDA under section 403(r) of the act. This interim final rule, if finalized without change, would amend existing food labeling regulations to add barley betafiber as an eligible source of beta-glucan soluble fiber to the authorized health claim for soluble fiber from certain foods and risk of CHD. Although this rule would have a preemptive effect in that it would preclude States from issuing any health claim labeling requirements for beta-glucan soluble fiber from barley betafiber and a reduced risk of CHD that are not identical to those that would be required by this interim final rule, this preemptive effect is consistent with what Congress set forth in section 403A of the act. Section 403A(a)(5) of the act displaces both State legislative requirements and State common law duties. (*Medtronic* v. *Lohr*, *518 U.S. 470, 503 (1996)* (Breyer, J., concurring in part and concurring in judgment); *id. at 510* (O'Connor, J., joined by Rehnquist, C.J., Scalia, J., and Thomas, J., concurring in part and dissenting in part); *Cipollone* v. *Liggett Group, Inc.*, 505 U.S. 504, 521 (1992) (plurality opinion); *id. at 548–49* (Scalia, J., joined by Thomas, J., concurring in judgment in part and dissenting in part).

FDA believes that the preemptive effect of this interim final rule, if finalized without change, is consistent with Executive Order 13132. Section 4(e) of the Executive order provides that ''when an agency proposes to act through adjudication or rulemaking to preempt State law, the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings.'' FDA provided the States with an opportunity for appropriate participation in this rulemaking on December 12, 2007, when FDA's Division of Federal and State Relations provided notice via fax and email transmission to State health commissioners, State agriculture commissioners, food program directors, and drug program directors as well as FDA field personnel of FDA's intent to amend the health claim regulation authorizing health claims for soluble fiber from certain foods and risk of CHD (§ 101.81). It advised the States of FDA's possible action and encouraged the States and local governments to review the petition and to provide any comments to the docket (Docket No. 2006P–0393), until January 12, 2008. FDA received no comments in response to the notice. FDA is also providing an opportunity for State and local officials to comment on this interim final rule.

In conclusion, the agency has determined that the preemptive effects of this interim final rule are consistent with Executive Order 13132.

X. Issuance of an Interim Final Rule and Immediate Effective Date

FDA is issuing this rule as an interim final rule, effective immediately, with an opportunity for public comment. Section 403(r)(7) of the act authorizes us to make proposed regulations issued under section 403(r) of the act effective upon publication pending consideration of public comment and publication of a final regulation, if the agency determines that such action is necessary for public health reasons. This authority enables us to act promptly on petitions that provide for information that is necessary to: (1) Enable consumers to develop and maintain healthy dietary practices, (2) enable consumers to be informed promptly and effectively of important new knowledge regarding nutritional and health benefits of food, or (3) ensure that scientifically sound nutritional and health information is provided to consumers as soon as possible. Proposed regulations made effective upon publication under this authority are deemed to be final agency action for purposes of judicial review. The legislative history indicates that such regulations should be issued as interim final rules (H. Conf. Rept. No. 105–399, at 98 (1997)).

We are satisfied that all three of the criteria in section 403(r)(7)(A) of the act have been met for the amendment to the soluble fiber from certain foods and risk of CHD health claim to list barley betafiber as eligible source of beta-glucan soluble fiber. This health claim amendment will help enable consumers to develop and maintain healthy dietary practices. The health claim will also provide consumers with important knowledge regarding the effects of beta-glucan soluble fiber in reducing the risk of, and will provide consumers with scientifically sound information on the benefits of foods containing beta-glucan soluble fiber from barley betafiber. Therefore, we are using the authority given to us in section 403(r)(7)(A) of the act to issue an interim final rule authorizing a health claim for soluble fiber from barley betafiber and CHD, effective immediately.

FDA invites public comment on this interim final rule. The agency will consider modifications to this interim final rule based on comments made during the comment period. Interested persons may submit to the Division of Dockets Management, in any of the ways noted in the **ADDRESSES** section at the beginning of this document, comments regarding this interim final rule by (see **DATES**). 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 Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This regulation is effective upon publication in the **Federal Register**. The agency will address comments and confirm or amend the interim final rule in a final rule.

XI. 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 Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

XII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. Cargill, Inc., ''Petition for Health Claim—Barley Betafiber and Coronary Heart Disease,'' (Docket 2006P–0393 CP1), June 20, 2006.

2. Cargill, Inc., ''Petition for Health Claim—Barley Betafiber and Coronary Heart Disease,'' Appendix 4, (Docket 2006P–0393), June 20, 2006.

3. Cargill, Inc., ''Petition for Health Claim—Barley Betafiber and Coronary Heart Disease,'' Appendix 1, (Docket 2006P–0393), June 20, 2006.

4. Keenan, J.M., Goulson, M., Shamliyan, T., et al., ''The Effects of Concentrated Barley Beta-Glucan on Blood Lipids in a Population of Hypercholesterolaemic Men and Women,'' *British Journal of Nutrition*, 97:1162–1168, 2007.

5. E-mail from Lore Kolberg, Cargill, Inc., to Jillonne Kevala, FDA, August 28, 2006.

6. Cooper, R., Cutler, J., Desvigne-Nickens, P., et al., ''Trends and Disparities in Coronary Heart Disease, Stroke, and Other Cardiovascular Diseases in the United States: Findings of the National Conference on

Cardiovascular Disease Prevention,'' *Circulation*, 102:3137–3147, 2000.

7. Agency Response Letter to Generally Recognized as Safe Notice No. GRN 000207, FDA, Center for Food Safety and Applied Nutrition, Office of Food Additive Safety, December 19, 2006.

8. National Heart, Lung, and Blood Institute; National Cholesterol Education Program Expert Panel on Detection, Evaluation, and Treatment of High Blood Pressure in Adults (Adult Treatment Panel III), Third Report of the NCEP Adult Treatment Panel III, Executive Summary, Bethesda (MD): National Institutes of Health, National Heart, Lung and Blood Institute, (*www.nhlbi.nih.gov/guidelines/cholesterol/atp_iii.htm*), May 2001.

9. Guidance for Industry: Significant Scientific Agreement in the Review of Health Claims for Conventional Foods and Dietary Supplements, Rockville, MD: U.S. Food and Drug Administration; December 1999, Available from: *http://www.cfsan.fda.gov/~dms/ssaguide.html*.

10. Biörklund, M., vanRees, A., Mensink, R.P., et al., ''Changes in Serum Lipids and Postprandial Glucose and Insulin Concentrations After Consumption of Beverages with β-Glucans from Oats or Barley: A Randomized Dose-Controlled Trial,'' *European Journal of Clinical Nutrition*, 59:1272–1281, 2005.

11. Keogh, G.F., Cooper, G.J.S., Mulvey, T.B., et al., ''Randomized Controlled Crossover Study of the Effect of a Highly β-Glucan-Enriched Barley on Cardiovascular Disease Risk Factors in Mildly Hypercholesterolemic Men,'' *American Journal of Clinical Nutrition*, 78:711–718, 2003.

12. Kerckhoffs, D.A.J.M., Hornstra, G., and R.P. Mensink, ''Cholesterol-Lowering Effect of β-Glucan from Oat Bran in Mildly Hypercholesterolemic Subjects May Decrease When β-Glucan is Incorporated Into Bread and Cookies,'' *American Journal of Clinical Nutrition*, 78:221–227, 2003.

13. Lovegrove, J.A., Clohessy, A., Milon, H., et al, ''Modest Doses of β-Glucan Do Not Reduce Concentrations of Potentially Atherogenic Lipoproteins,'' *American Journal of Clinical Nutrition*, 72:49–55, 2000.

14. Naumann, E., vanRees, A.B., Önning, G., et al., ''β-Glucan Incorporated Into a Fruit Drink Effectively Lowers Serum LDL-Cholesterol Concentrations,'' *American Journal of Clinical Nutrition*, 83:601–605, 2006.

15. Pick, M.E., Hawrysh, Z.J., Gee, M.I., et al., ''Oat Bran Concentrate Bread Products Improve Long-Term Control of Diabetes: A Pilot Study,'' *Journal of the American Dietetic Association*, 96:1254–1261, 1996.

16. Beer, M.U., Arrigoni, E., and R. Amado, ''Effects of Oat Gum on Blood Cholesterol Levels in Healthy Young Men,'' *European Journal of Clinical Nutrition*, 49:517–522, 1995.

17. Braaten, J.T., Wood, P.J., Scott, F.W., et al., ''Oat β-Glucan Reduces Blood Cholesterol Concentration in Hypercholesterolemic Subjects,'' *European Journal of Clinical Nutrition*, 48:465–474, 1994.

18. Pomeroy, S., Tupper, R., Cehun-Anders, and P. Nestel, ''Oat β-Glucan Lowers Total and LDL-Cholesterol,'' *Australian Journal of Nutrition and Dietetics*, 58:51–55, 2001.

19. Törrönen, R., Kansanen, L., Uusitupa, M., et al., ''Effects of an Oat Bran Concentrate on Serum Lipids in Free-Living Men with Mild to Moderate Hypercholesterolemia,'' *European Journal of Clinical Nutrition*, 46:621–627, 1992.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

■ 1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

■ 2. Section 101.81 is amended by adding paragraph (c)(2)(ii)(A)(*6*) and by revising paragraph (c)(2)(iii)(A)(*2*) to read as follows:

§ 101.81 Health claims: Soluble fiber from certain foods and risk of coronary heart disease (CHD).

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(A) * * *

(*6*) *Barley betafiber*. Barley betafiber is the ethanol precipitated soluble fraction of cellulase and alpha-amylase hydrolyzed whole grain barley. Barley betafiber is produced by hydrolysis of whole grain barley flour, as defined in paragraph (c)(2)(ii)(A)(*5*) of this section, with a cellulase and alpha-amylase enzyme preparation, to produce a clear aqueous extract that contains mainly partially hydrolyzed beta-glucan and substantially hydrolyzed starch. The soluble, partially hydrolyzed beta-glucan is separated from the insoluble material by centrifugation, and after removal of the insoluble material, the partially hydrolyzed beta-glucan soluble fiber is separated from the other soluble compounds by precipitation with ethanol. The product is then dried, milled and sifted. Barley betafiber shall have a beta-glucan soluble fiber content of at least 70 percent on a dry weight basis.

* * * * *

(iii) * * *

(A) * * *

(*2*) The food containing the oatrim from paragraph (c)(2)(ii)(A)(*4*) of this section or the barley betafiber from paragraph (c)(2)(ii)(A)(*6*) of this section shall contain at least 0.75 g of beta-glucan soluble fiber per reference amount customarily consumed of the food product; or

* * * * *

Dated: February 15, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3418 Filed 2–22–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No.: 001–2008]

Privacy Act of 1974; System of Records

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Final rule.

SUMMARY: The Federal Bureau of Investigation (FBI), a component agency of the Department of Justice (DOJ), is issuing a final rule exempting a new Privacy Act system of records, the Law Enforcement National Data Exchange. The FBI published a system of records notice for N–DEx and a proposed rule implementing these exemptions on October 4, 2007. The listed exemptions are necessary to avoid interference with the law enforcement functions and responsibilities of the FBI. This document addresses public comments on the proposed rule.

DATES: This final rule is effective February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Kirsten J. Moncada, Director, Office of Privacy and Civil Liberties, 950 Pennsylvania Avenue, NW., Washington, DC 20530, or facsimile 202–616–9627.

SUPPLEMENTARY INFORMATION:

On October 4, 2007, the FBI issued a system of records notice at 72 FR 56793, for a new Privacy Act records system, JUSTICE/FBI–020, the Law Enforcement National Data Exchange (N–DEx), and a notice of proposed rulemaking, at 72 FR 56704, to exempt it from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act. The FBI explained that the exemptions were necessary in order to avoid interference with the FBI's law enforcement functions and responsibilities.

Two thoughtful comments from individuals were received on the proposed exemptions. One commenter supported the claimed exemptions, observing that they were ''most

assuredly necessary.'' While noting that the exemptions were ''an admirable attempt at balancing privacy and safety interests,'' the other commenter expressed concern about the FBI's exemption of the system from the amendment/correction provisions of subsection (d) of the Privacy Act. This commenter provided two suggestions for ways to permit amendment of N–DEx records. While the FBI appreciates the suggestions, the second one, amending the current law, would require legislation which is the purview of Congress and not the Executive Branch. The other suggestion, to apply the exemption for a temporal period only (such as the 30-day period envisioned in subsection (d)(3) for responding to Privacy Act requests or some longer period), would place the FBI in the administratively untenable position of having to verify with multiple law enforcement entities the status of any investigation, whether at the state, local or Federal level. The FBI notes that under the operating procedures of N–DEx, any entity that wishes to use information from the system for a law enforcement purpose is required to verify the accuracy of the data with the submitter, which provides a mechanism for ensuring that the information is accurate and timely. The FBI also notes that although it has proposed to exempt the system from the access and amendment provisions of the Privacy Act, FBI information in the system can be requested under the Freedom of Information Act. Consequently, individuals potentially have a means to obtain data from closed investigations and can still submit letters of disagreement if some information is determined to be incorrect. See 28 CFR 16.46. The FBI agrees with the commenter that having accurate law enforcement information is necessary, but believes that the system has built-in mechanisms to ensure that the information to be maintained—and more importantly used—is correct, and that the burdens from allowing access and amendment, coupled with the other reasons underlying the exemption, outweigh the benefit to be gained in this case.

The FBI's claim of exemption from the access and amendment provisions of the Privacy Act is consistent with the principles of public policy reflected in the Privacy Act, which allows an agency to exempt itself from certain Privacy Act rules in order to avoid ''undesirable and often unacceptable effects upon agencies in the conduct of necessary public business.'' See Office of Management and Budget, Privacy Act Implementation Guidelines and Responsibilities, 40 FR 28948, 28971 (July 9, 1975). After careful consideration of the public comments, the FBI has determined that no substantive changes are warranted in the proposed rule and that it should be issued in final form. The FBI, however, is making two minor typographical changes in the final rule: the insertion of subparagraph letters for paragraph 7 and the renumbering of subparagraph (10) to fix a numeration error.

Regulatory Flexibility Act

This rule relates to individuals, as opposed to small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, the rule will not have a significant economic impact on a substantial number of small entities.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FBI to comply with small entity requests for information and advice about compliance with statutes and regulations within FBI jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at *http://www.sba.gov/advo/laws/law_lib.html.*

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 requires that the FBI consider the impact of paperwork and other information collection burdens imposed on the public. There are no current or new information collection requirements associated with this rule.

Analysis of Regulatory Impacts

This rule is not a ''significant regulatory action'' within the meaning of Executive Order 12886. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, the Attorney General certifies that this rule would not have a significant economic impact on a substantial number of small entities, because the reporting requirements themselves are not changed and because it applies only to information on individuals.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty, imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in aggregate, $100 million or more in any one year the UMRA analysis is required. This rule would not impose Federal mandates on any State, local, or tribal government or the private sector.

Executive Order 13132, Federalism

The FBI has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. This action 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, and therefore, will not have federalism implications.

Environmental Analysis

The FBI has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), as amended (42 U.S.C. 6362). This rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

■ Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793–78, 28 CFR part 16 is amended as follows:

PART 16—[AMENDED]

Subpart E—Exemption of Records Systems Under the Privacy Act

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 524; 31 U.S.C. 3717, 9701.

■ 2. Section 16.96 is amended to add new paragraphs (t) and (u) as follows:

§ 16.96 Exemption of Federal Bureau of Investigation Systems—limited access.

* * * * *

(t) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2), (3), (5) and (8); and (g) of the Privacy Act:

(1) Law Enforcement National Data Exchange (N–DEx), (JUSTICE/FBI–020).

(2) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system, or the overall law enforcement process, the applicable exemption may be waived by the FBI in its sole discretion.

(u) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any investigative interest in the individual. Revealing this information may thus compromise ongoing law enforcement efforts. Revealing this information may also permit the record subject to take measures to impede the investigation, such as destroying evidence, intimidating potential witnesses or fleeing the area to avoid the investigation.

(2) From subsection (c)(4) because this system is exempt from the access and amendment provisions of subsection (d).

(3) From subsections (d)(1), (2), (3), and (4), because these provisions concern individual access to and amendment of investigatory records, compliance with which could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of the FBI and other law enforcement agencies; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; possibly identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing investigations and other law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for law enforcement purposes and, in fact, a major tenet of the N–DEx information sharing system is that the relevance of certain information may not always be evident in the absence of the ability to correlate that information with other existing law enforcement data.

(5) From subsection (e)(2) because application of this provision could present a serious impediment to efforts to solve crimes and improve homeland security in that it would put the subject of an investigation on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(6) From subsection (e)(3) because disclosure would put the subject of an investigation on notice of that fact and would permit the subject to engage in conduct intended to thwart that activity.

(7)(i) From subsection (e)(5) because many of the records in this system are records contributed by other agencies and the restrictions imposed by (e)(5) would limit the utility of the N–DEx system. All data contributors are expected to ensure that information they share is relevant, timely, complete and accurate. In fact, rules for use of the N–DEx system will require that information be updated periodically and not be used as a basis for action or disseminated beyond the recipient without the recipient first obtaining permission from the record owner/contributor. These rules will be enforced through robust audit procedures. The existence of these rules should ameliorate any perceived concerns about the integrity of the information in the N–DEx system. Nevertheless, exemption from this provision is warranted in order to reduce the administrative burden on the FBI to vouch for compliance with the provision by all N–DEx data contributors and to encourage those contributors to share information the significance of which may only become apparent when combined with other information in the N–DEx system.

(ii) The FBI is also exempting the N–DEx from subsection (e)(5) in order to block the use of a challenge under subsection (e)(5) as a collateral means to obtain access to records in the N–DEx. The FBI has exempted these records from the access and amendment requirements of subsection (d) of the Privacy Act in order to protect the integrity of law enforcement investigations. Exempting the N–DEx system from subsection (e)(5) complements this exemption and will provide the FBI with the ability to prevent the assertion of challenges to a record's accuracy, timeliness, completeness and/or relevance under subsection (e)(5) to circumvent the exemption claimed from subsection (d).

(8) From subsection (e)(8), because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on the FBI and may alert the subjects of law enforcement investigations to the fact of those investigations, when not previously known.

(9) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: February 14, 2008.

Kenneth P. Mortensen,

Acting Chief Privacy and Civil Liberties Officer, Department of Justice.

[FR Doc. E8–3433 Filed 2–22–08; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2006–OS–0023; RIN 0790–AH95]

32 CFR Part 240

Financial Assistance to Local Educational Agencies (LEAs)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is removing 32 CFR Part 240, ''Financial Assistance to Local Educational Agencies (LEAs).'' The part has served the purpose for which it was intended and is no longer valid.

DATES: *Effective Date:* February 25, 2008.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, 703–696–4970.

SUPPLEMENTARY INFORMATION: DoD Instruction 1342.18 was originally codified as 32 CFR part 240. This Instruction was reissued on February 6, 2006 and will no longer be codified in the Code of Federal Regulations. Copies of DoD Instruction 1342.18 may be obtained at *http://www.dtic.mil/whs/directives/.*

List of Subject in 32 CFR Part 240

Elementary and secondary education; Federally affected areas; Grant programs-education.

■ Accordingly, by the authority of 10 U.S.C., title 32 of the Code of Federal Regulations is amended by removing part 240:

PART 240—[REMOVED]

Dated: February 19, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E8–3479 Filed 2–22–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC 2007–0005]

RIN 2135–AA27

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. The SLSDC is seeking to harmonize the ballast water requirements for vessels transiting the U.S. waters of the Seaway after having operated outside the exclusive economic zone (EEZ) with those currently required by Canadian authorities for transit in waters under Canadian jurisdiction of the Seaway. These amendments are necessary to take account of updated procedures and will eliminate the confusion regarding the requirements for saltwater flushing in the binational waters of the Seaway System.

DATES: The final rule will be effective March 26, 2008.

FOR FURTHER INFORMATION CONTACT: Carrie Bedwell Mann, Chief Counsel, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–0091.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. The SLSDC is seeking to harmonize the ballast water requirements for vessels transiting the U.S. waters of the Seaway after having operated outside the exclusive economic zone (EEZ) with those currently required by Canadian authorities for transit in waters under Canadian jurisdiction of the Seaway. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway and eliminate the confusion regarding the requirements for saltwater flushing of ballast tanks containing only residual amounts of water and/or sediment in the binational waters of the Seaway. Several of the amendments are merely editorial or clarification of existing requirements. Where new requirements or regulations are being made, an explanation for such a change is provided below.

Regulatory Notices: 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 the U.S. Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–19478) or you may visit *http://www.Regulations.gov.*

Discussion of Comments

From the Notice of Proposed Rulemaking, 72 FR 74247, we received 15 letters or other forms of correspondence on the proposed regulation requiring saltwater flushing of ballast water tanks that contain residual amounts of water and/or sediment. Comments were received from: Congressman Vernon J. Ehlers, Minnesota Pollution Control Agency, Great Lakes Commission, Wisconsin Department of Natural Resources, Shipping Federation of Canada, McCabe Chapter of IWLA, National Oceanic and Atmospheric Administration, National Environmental Coalition on Invasive Species, Great Lakes United/Save The River/Alliance for the Great Lakes, Natural Resources Defense Council, the Polish Steamship Company, Ontario Ministry of Natural Resources, and 3 private citizens: Bruce Lindgren, Claire Duquette, and Dick Schwab. Most letters contained more than one comment on this issue. These included general comments as well as specific comments. We address the general comments first and then the specific comments. We did not receive any comments on the remaining proposed revisions to the joint Seaway regulations.

General Comments

All 15 comments supported the proposed regulations. Eleven (11) of the commenters: Congressman Ehlers, McCabe Chapter of the IWLA, the Wisconsin Department of Natural Resources, Great Lakes Commission, National Oceanic and Atmospheric Administration, National Environmental Coalition on Invasive Species, Great Lakes United, National Wildlife Federation, National Resources Defense Council, Mr. Schwab and Mr. Lindgren, stated that while the regulation is an important step in the right direction, more needs to be done to reduce invasions of aquatic nuisance species (ANS).

The SLSDC agrees with these comments and wants to emphasize that this regulation is intended to be an interim solution while the U.S. Coast Guard, the lead Federal agency charged with regulating ballast water discharges, completes its ballast water discharge standard rulemaking and the U.S. Congress continues work on National legislation to address this important issue. We will continue to work with the U.S. Coast Guard and our Canadian counterparts on efforts to combat the introduction of aquatic nuisance species. We will share the comments received in this docket with the U.S. Coast Guard to aid in their efforts to develop a discharge standard.

Seven (7) commenters: McCabe Chapter of the IWLA, Congressman Ehlers, Shipping Federation of Canada, Minnesota Pollution Control Agency, National Environmental Coalition on Invasive Species, Great Lakes United, National Wildlife Federation, acknowledge and support the need to harmonize the U.S. regulations with the Canadian regulations requiring saltwater

flushing for vessels transiting the Seaway. The Polish Steamship Company acknowledged that this regulation will not result in any economic hardship to the company since its vessels are already required to conduct saltwater flushing 200 miles out at sea.

We agree that harmonization of the saltwater flushing requirements for vessels transiting the binational waters of the Seaway system after having operated outside the EEZ will provide consistency between the U.S. and Canadian requirements for those vessels regardless of their port of destination. There has been a joint inspection program for both safety and environmental issues conducted in Montreal, Quebec for quite some time; however, this regulation will now provide inspectors with consistent requirements by both countries. Inspection personnel from all agencies will be inspecting vessels utilizing the same criteria.

Specific Comments

A majority of the commenters suggest making changes to the scope of the regulation. Six (6) commenters: Great Lakes Commission, Minnesota Pollution Control Agency, National Environmental Coalition on Invasive Species, Great Lakes United, National Resources Defense Council, Ontario Ministry of Natural Resources, propose that the requirements should apply to Canadian and U.S. flagged vessels that operate outside the EEZ. One commenter, Great Lakes United, further proposed harmonizing the proposed rule with the Canadian rules that state the regulations apply to every ship in waters under Canadian jurisdiction. Great Lakes United would like the regulation clarified to state that if vessels are not covered by the U.S. Coast Guard regulations, the Seaway regulations would apply. They believe that this creates a loophole and not all oceangoing vessels will be required to conduct saltwater flushing.

The intent of the U.S. regulation is to make consistent the requirements for vessels operating in the Seaway. The Canadian regulations require that Canadian vessels operating outside the EEZ conduct saltwater flushing. Additionally, the Canadian regulations apply to U.S. flagged vessels after operating outside the EEZ as well. We agree with the commenters and have modified the language of the rule to include U.S. and Canadian flagged vessels that have operated outside the EEZ in order to harmonize the rules with the Canadian requirements already in effect in the Canadian waters of the Seaway. Thus, all oceangoing vessels will be required to conduct saltwater flushing of ballast water tanks containing residual amounts of ballast water and/or sediment prior to entering the Seaway. The vessels are inspected at Montreal by the relevant agencies with jurisdiction over vessels en route to the Great Lakes, the two Seaway Corporations, U.S. Coast Guard, and Transport Canada, to ensure compliance with all ballast water requirements.

One commenter, Minnesota Pollution Control Agency, recommends modifying 401.30(f)(1) to include vessels with no pumpable ballast on board. The commenter suggested that the proposed language was not clear whether the saltwater flushing requirement would apply to vessels declaring ''No Ballast Onboard'' (NOBOB).

The joint regulation pertains to tanks containing residual amounts of water and/or sediment regardless of whether the vessel is a ''Ballast on Board'' (BOB) or NOBOB vessel. Again, it is important to note that the U.S. Coast Guard is the lead agency for regulating ballast water discharges and is working on a ballast water discharge standard that would apply to all ballast water discharges regardless of whether the discharge is from a full tank or one containing only residual amounts of water and/ or sediment.

Six commenters: Great Lakes Commission, Minnesota Pollution Control Agency, National Environmental Coalition on Invasive Species, Great Lakes United, National Wildlife Federation and the Ontario Ministry of Natural Resources, also suggested that the requirements should apply to all vessels including those operating exclusively within the U.S. and/or Canadian exclusive economic zone.

The rule is intended to be consistent with the Canadian requirements already in force for the Canadian waters of the Seaway. The Canadian requirements for saltwater flushing do not apply to vessels operating exclusively inside the Canadian EEZ. We will share these comments with Transport Canada and the U.S. Coast Guard.

Several commenters suggested strengthening the saltwater flushing requirements. One commenter, Great Lakes United, also proposes changing the word ''should'' in the definition of saltwater flushing to ''shall'' in two places. The commenter states that ''given the limitation for safety, there is no reason not to require as much water as is safe rather than recommend it''. Additionally, they suggest that there is no reason not to require taking care to eliminate fresh or brackish water.

The SLSDC agrees with this comment and has revised the proposed language in 401(f)(1) to reflect this suggestion.

One commenter, National Wildlife Federation, suggested adding more detail to the requirements for saltwater flushing such as:

- maximizing physical expulsion as well as salinity shock;
- specifying how quickly salinity of at least 30 parts per thousand (ppt) must be attained and how long residual organisms are exposed to salinity levels;
- clarifying that the salinity requirement applies to residual water that is already highly saline; and
- requiring saltwater flushing occur where the water depth is at least 2,000 meters.

The SLSDC appreciates receiving these suggestions that would strengthen the requirements for saltwater flushing; however, these requirements are not consistent with harmonizing the U.S. regulations with the Canadian regulations for vessels operating in the Seaway. We agree that effective ballast water management practices are necessary and will share these comments with the U.S. Coast Guard and Transport Canada.

One commenter, National Wildlife Federation, suggests that the salinity requirement should apply to sediment as well as resultant residual water.

This is in the definition of saltwater flushing taken from the Canadian and U.S. Coast Guard Best Management Practices.

Several comments centered on recordkeeping and compliance requirements. One commenter, Congressman Ehlers, urges vigorous enforcement of the new requirements through extensive monitoring and severe fines and penalties for violators. Three commenters: Minnesota Pollution Control Agency, Great Lakes United and the National Wildlife Federation, urge the SLSDC to strengthen the recordkeeping and reporting requirements related to achieving the required salinity in each tank to a minimum of 30 parts per thousand. The Minnesota Pollution Control Agency requests that the regulation be modified to explicitly require the measurements of salinity and records of the measurement time, date and geographic location of the vessel when the measurement was taken. One commenter, Great Lakes United, wants public access to information general from the reporting and enforcement.

The agencies with jurisdiction over vessels en route to the Great Lakes basin: the two Seaway Corporations, the U.S. Coast Guard and Transport Canada will be inspecting the vessels entering

the Seaway for compliance with ballast water management requirements. The inspectors will verify the accuracy of the information on the ballast water management report forms. The reporting form (and instructions) for ballast water management required to be completed prior to entering the Seaway will be available on the Seaway binational Web site at *http://www.greatlakes-seaway.com* prior to the opening of the 2008 navigation season. At the end of each navigation season, the agencies will publish a ballast water inspection report summary which will be made available to the public on the binational Web site.

One commenter, Great Lakes United, proposes revising § 401.30(g) by changing ''taken aboard'' to ''while'' to ensure that noncompliant ballast water will not be released in the St. Lawrence River or Great Lakes even if no additional water is taken on.

One (1) commenter, Shipping Federation of Canada, proposed revising the language in 401.30(f) to make it clear that the ballast water should be retained only in a tank that is found to be noncompliant as opposed to requiring the entire ship to retain all ballast water in all tanks, even compliant tanks.

The SLSDC agrees with this proposal and has modified the regulation to clarify that only a tank that is found noncompliant will be required to retain any ballast water while in the Seaway. In addition, the SLSDC revised the regulation based on the Great Lakes United suggestion to make clear that the water from the noncompliant tank is not to be discharged while the vessel is in the Seaway.

Several commenters noted a typographical error in 401.30(f)(1) regarding the definition of saltwater flushing. The proposed rule refers to mixing ''freshwater'' with ballast water, when it should say either ''saltwater'' or flush water''.

The final rule has been corrected to state flushwater in order to be consistent with the Canadian definition.

Discussion of Final Rule

In addition to the changes to the ballast water management requirements, the SLSDC is making changes to other sections of the joint regulations. The SLSDC is making one amendment to the Condition of Vessels section of the joint Seaway regulations. In § 401.12, ''Minimum requirements—mooring lines and fairleads'', the language is modified to provide vessels the option of using mooring lines that are either wire or synthetic based upon the length of the vessel. Since mooring lines can be wire or synthetic some smaller vessels have presented themselves for transit with a mix of mooring wires/and or synthetic lines. Synthetic lines or hawsers are sufficient to moor the smaller vessels and mooring wire is more than capable of mooring the smaller vessels, therefore the use of either wire or synthetic lines will be acceptable.

Several amendments to the joint regulations pertaining to Seaway Navigation are being made. In § 401.34, ''Vessels in tow'', the SLSDC is adding a provision that would require every vessel in tow be inspected prior to every transit. The SLSDC is making this amendment to ensure navigation safety through inspection of all vessels even when a vessel is in tow. Currently such vessels are being inspected; however, this change will make it a mandatory requirement.

As discussed above, the SLSDC is amending the joint regulations in § 401.30, ''Ballast water and trim''. The amendment seeks to harmonize the requirements for saltwater flushing of ballast water tanks containing residual amounts of ballast water and/or sediment with the requirements already in place for vessels transiting Canadian waters of the Seaway System. Vessels transiting the Seaway traverse Canadian and U.S. waters multiple times en route to ports in the Great Lakes St. Lawrence Seaway System. The amendments would make the requirements for oceangoing vessels to conduct saltwater flushing of each ballast water tank that contains residual amounts of ballast water and/or sediment the same whether the vessel is transiting U.S. or Canadian waters of the Seaway after having operated outside the EEZ. The requirement for saltwater flushing of ballast tanks is intended to mirror the regulations already in effect in waters under Canadian jurisdiction for vessels transiting the Seaway.

Specifically, the SLSDC, in agreement with the SLSMC, is amending the Seaway Regulations and Rules by adding new subsections (f) and (g) to § 401.30, ''Ballast water and trim.'' These new subsections will require that, as a condition of transiting the Seaway, every vessel must conduct a saltwater flushing of its ballast tanks that contain residual amounts of ballast water in an area 200 nautical miles from any shore before entering waters under Canadian jurisdiction. Saltwater flushing is defined as the addition of midocean water to ballast water tanks: the mixing of the flushwater with residual water and sediment through the motion of the vessel; and the discharge of the mixed water. The resultant residual water remaining in the tank must have a salinity level of at least 30 parts per thousand (ppt). Further, each vessel must maintain the ability to measure salinity levels in each tank onboard the vessel so that final salinities of at least 30 parts per thousand can be ensured. Any vessel that has tanks that fail to reach this salinity level will be required to retain any water in those tanks until it exits the Seaway.

In addition, the SLSDC and SLSMC will continue to require that as a mandatory prerequisite for clearance of a vessel for transit of the Seaway System after operating beyond the EEZ, the vessel must agree to comply with the ''Code of Best Practices for Ballast Water Management'' of the Shipping Federation of Canada dated September 28, 2000.

In light of the amount of interest and activity regarding control of aquatic nuisance species (ANS) at all levels of government, especially in the U.S. Congress and the U.S. Coast Guard, the joint regulations will be reviewed and revised once either National legislation and/or regulations are issued that would pertain directly to this issue. In the meantime, this measure is intended to be an interim solution.

In § 401.40, ''Entering, exiting, or position in lock'', the SLSDC will prohibit a vessel, when it is being cast off in a lock, from departing in a manner that the stern passes the stop symbol on the local wall nearest the closed gates. Occasionally vessels drift backward in the lock while the mooring lines are being released; preventing the vessel's stern from passing the stop symbol will protect the vessel and the lock gates from possible damage.

Other changes made to the joint regulations, including one to the regulations pertaining to Information and Reports, are merely editorial or for clarification purposes.

Regulatory Evaluation

This regulation is significant because of significant public interest in measures that address aquatic nuisance species and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act Determination

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The Saint Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et reg.*) because it is not a major federal action significantly affecting the quality of the human environment. The environmental considerations applicable to the basic substance of this regulation are essentially discussed in the U.S. Coast Guard's Environmental Assessment for its May 17, 1999, ''Implementation of the National Invasive Species Act of 1996'' rulemaking (64 FR 26672) and the U.S. Coast Guard's Environmental Assessment for its August 31, 2005, ''Ballast Water Management for Vessels Entering the Great Lakes That Declare No Ballast Onboard'' (71 FR 4605).

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

■ Accordingly, the Saint Lawrence Seaway Development Corporation is amending 33 CFR part 401, Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

■ 1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a) (4), as amended; 49 CFR 1.52, unless otherwise noted.

■ 2. In § 401.12 paragraphs (a)(1) introductory text; (a)(1)(i), (a)(2) introductory text, (a)(3) introductory text, and (a)(4) introductory text are revised to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) * * * * *

(1) Vessels of 80 m or less in overall length shall have at least three mooring lines—wires or synthetic hawsers, two of which shall be independently power operated and one of which shall be hand held:

(i) One line shall lead forward from the break of the bow and one line shall lead astern from the quarter and be independently power operated by winches, capstans or windlasses and lead through closed chocks or fairleads acceptable to the Manager and the Corporation; and

* * * * *

(2) Vessels of more than 80 m but not more than 100 m in overall length shall have four mooring lines—wires or synthetic hawsers, of which three shall be independently power operated by winches, capstans or windlasses and one being hand held. All lines shall be led through closed chocks or fairleads acceptable to the Manager and the Corporation, of which three mooring lines:

* * * * *

(3) Vessels of more than 100 m but not more than 120 m in overall length shall have four mooring lines—wires or synthetic hawsers independently power operated by winches, capstan or windlasses as follows:

* * * * *

(4) Vessels of more than 120 m in overall length shall have four mooring lines—wires, two of which shall lead from the break of the bow and two of which shall lead from the quarter, and;

* * * * *

■ 3. Section 401.27 is revised to read as follows:

§ 401.27 Compliance with instructions.

Every vessel shall comply promptly with transit instructions given by the traffic controller or any other officer.

■ 4. In § 401.29 paragraph (a) is revised to read as follows:

§ 401.29 Maximum draft.

(a) The draft and speed of a vessel in transit shall be controlled by the master, who shall take into account the vessel's individual characteristics and its tendency to list or squat, so as to avoid striking bottom.[1]

* * * * *

■ 5. Section 401.30 is amended by adding new paragraphs (f), (g) and (h) to read as follows:

§ 401.30 Ballast water and trim.

* * * * *

(f) As a condition of transit of the Seaway after having operated outside the exclusive economic zone (EEZ) every vessel that carries only residual amounts of ballast water and/or sediment that were taken onboard the vessel outside the EEZ shall:

(1) Conduct a saltwater flushing of their ballast water tanks that contain the residual amounts of ballast water and/or sediment in an area 200 nautical miles from any shore before entering waters of the Seaway. Saltwater flushing is defined as the addition of mid-ocean water to ballast water tanks: The mixing of the flushwater with residual water and sediment through the motion of the vessel; and the discharge of the mixed water, such that the resultant residual water remaining in the tank has as high salinity as possible, and is at least 30 parts per thousand (ppt). The vessel shall take on as much mid-ocean water into each tank as is safe (for the vessel and crew) in order to conduct saltwater flushing. And adequate flushing may require more than one fill-mix-empty sequence, particularly if only small amounts of water can be safely taken onboard at one time. The master of the vessel is responsible for ensuring the safety of the vessel, crew, and passengers. Vessels reporting only residual ballast water onboard shall take particular care to conduct saltwater flushing on the transit to the Great Lakes so as to eliminate fresh and or brackish water residuals in ballast tanks; and

(2) Maintain the ability to measure salinity levels in each tank onboard the vessel so that final salinities of at least 30 ppt can be ensured.

(g) Every tank that is found not in compliance with 401.30(f) shall retain any ballast water until it exits the Seaway.

(h) These requirements do not apply to vessels of the armed forces, as defined in the Federal Water Pollution Control Act, or that are owned or operated by a state and used in government noncommercial service.

■ 6. In § 401.31 paragraph (c) introductory text is revised to read as follows:

[1] The main channels between the Port of Montreal and Lake Erie have a controlling depth of 8.23m.

§ 401.31 Meeting and passing.

* * * * *

(c) Except as instructed by the traffic controller, no vessel shall overtake and pass or attempt to overtake and pass another vessel—

* * * * *

■ 7. Section 401. 34 is revised to read as follows:

§ 401.34 Vessels in tow.

No vessel that is not self-propelled (including but not limited to tug/tows and/or deadship/tows) shall be underway in any Seaway waters unless it is securely tied to an adequate tug or tugs, in accordance with special instructions given by the Manager or the Corporation pursuant to § 401.33. Every vessel in tow has to be inspected prior to every transit unless it has a valid Seaway Inspection Certificate. The owner/master shall give a 24-hour notice of arrival when an inspection is requested.

■ 8. Section 401.36 is revised to read as follows:

§ 401.36 Order of passing through.

Vessels shall advance to a lock in the order instructed by the traffic controller.

■ 9. In § 401.37, paragraph (a) is revised to read as follows:

§ 401.37 Mooring at tie-up walls.

(a) Upon arrival at a lock, a vessel awaiting instructions to advance shall moor at the tie-up wall, close up to the designated limit or approach sign or to the ship preceding it, whichever is specified by the traffic controller or an officer.

* * * * *

■ 10. In § 401.40, paragraph (b) is revised to read as follows:

§ 401.40 Entering, exiting or position in lock.

* * * * *

(b) On being cast off in a lock, no vessel shall be allowed to fall back in such a manner that the stern passes the stop symbol on the lock wall nearest the closed gates.

* * * * *

■ 11. In § 401.48, paragraph (a) is revised to read as follows:

§ 401.48 Turning basins.

* * * * *

(a) With permission from the traffic controller; and

* * * * *

■ 12. Section 401.49 is revised to read as follows:

§ 401.49 Dropping anchor or tying to canal bank.

Except in an emergency, no vessel shall drop anchor in any canal or tie-up to any canal bank unless authorized to do so by the traffic controller.

■ 13. In § 401.50, the introductory text is revised to read as follows:

§ 401.50 Anchorage areas.

Except in an emergency, or unless authorized to do so by the traffic controller, no vessel shall drop anchor in any part of the Seaway except in the following designated anchorage areas:

* * * * *

■ 14. In § 401.51, paragraph (a) is revised to read as follows:

§ 401.51 Signaling approach to a bridge.

(a) Unless a vessel's approach has been recognized by a flashing signal, the master shall signal the vessel's presence to the bridge operator by VHF radio when it comes abreast of any of the bridge whistle signs.

* * * * *

■ 15. In § 401.58, paragraph (a) is revised to read as follows:

§ 401.58 Pleasure craft scheduling.

(a) The transit of pleasure craft shall be scheduled by the traffic controller or the officer in charge of a lock and may be delayed so as to avoid interference with other vessels; and

* * * * *

■ 16. Section 401.83 is revised to read as follows:

§ 401.83 Reporting position at anchor, wharf, etc.

A vessel anchoring in a designated anchorage area, or elsewhere, and a vessel mooring at a wharf or dock, tying-up to a canal bank or being held on a canal bank in any manner shall immediately report its position to the traffic controller and it shall not resume its voyage without the traffic controller's permission.

Issued at Washington, DC on February 15, 2008.

Saint Lawrence Seaway Development Corporation.

Collister Johnson, Jr.,

Administrator.

[FR Doc. E8–3323 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–61–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 99–25; FCC 07–204]

Creation of a Low Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission (FCC) is correcting a final rule that was published in the **Federal Register** on January 17, 2008 (73 FR 3202), and which becomes effective on March 17, 2008.

DATES: Effective March 17, 2008.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Holly Saurer, *Holly.Saurer@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: The Commission's *Third Report and Order,* FCC 07–204, adopted on November 27, 2007 and released on December 11, 2007, amends section 73.3598(a) of the Commission's rules. This rule change, listed as amendment 9 of the rule changes to part 73 on page 3218, omits the changes made to this rule by the Commission's *Report and Order,* FCC 07–228, in the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television, MB Docket No. 07–91, adopted on December 22, 2007 and released on December 31, 2007 (*''Third DTV Periodic Report and Order''*). The final rule in the *Third DTV Periodic Report and Order* that amended section 73.3598(a) was published in the **Federal Register** on January 30, 2008 (73 FR 5633) and also became effective on that date.

Correction

In rule FR Doc. E8–783 published on January 17, 2008 (73 FR 3218) make the following correction. On page 3218, the first column, paragraph no. 9 to the amendment of the rule to part 73 is corrected as follows:

■ 9. Section 73.3598 is amended by revising paragraph (a) to read as follows:

§ 73.3598 Period of construction.

(a) Each original construction permit for the construction of a new TV (including full-power DTV), AM, FM or International Broadcast; low power TV; TV translator; TV booster; FM translator; FM booster station; or to make changes in such existing stations, shall specify a period of three years from the date of

issuance of the original construction permit within which construction shall be completed and application for license filed. Each original construction permit for the construction of a new LPFM station shall specify a period of eighteen months from the date of issuance of the construction permit within which construction shall be completed and application for license filed. A LPFM permittee unable to complete construction within the time frame specified in the original construction permit may apply for an eighteen month extension upon a showing of good cause. The LPFM permittee must file for an extension on or before the expiration of the construction deadline specified in the original construction permit.

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–3533 Filed 2–22–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA–2007–28445; Notice 2]

RIN 2127–AK07

Civil Penalties

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

ACTION: Final rule.

SUMMARY: This document increases the maximum civil penalties for violations of the odometer tampering and disclosure requirements and certain administrative provisions of the Energy Policy and Conservation Act. This action is taken pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires us to review and, as warranted, adjust penalties based on inflation at least every four years.

DATES: This final rule is effective March 26, 2008.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Fourth Floor, Washington, DC 20590, with a copy to the DOT docket. Copies to the docket may be submitted electronically through the Federal E-Rulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

You may call Docket Management at 202–366–9324. The Docket room (Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE.), hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Michael Kido, Office of Chief Counsel, NHTSA, telephone (202) 366–5263, facsimile (202) 366–3820, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This rule adjusts for inflation certain maximum available penalty amounts and codifies the new amounts in 49 CFR part 578 *Civil and Criminal Penalties*. In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (28 U.S.C. 2461 Notes, Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996, (Pub. L. 104–134) (referred to collectively as the ''Adjustment Act'' or, in context, the ''Act''), requires us and other Federal agencies to regularly adjust civil penalties for inflation. Under the Adjustment Act, following an initial adjustment that was capped by the Act, these agencies must make further adjustments, as warranted, to the amounts of penalties in statutes they administer at least once every four years.[1]

The changes to certain maximum penalties for violations of the odometer laws, regulations and orders and for violations of certain administrative procedures of the Energy Policy and Conservation Act of 1975 as amended and recodified (EPCA) in today's rule were proposed and explained in our September 26, 2007 Notice of Proposed Rulemaking (NPRM). 72 FR 54635. The discussion in that notice is incorporated by reference. We received no comments to that notice.

NHTSA is adjusting the maximum penalty for a single violation of the odometer tampering and disclosure requirements in 49 U.S.C. Chapter 327 or a regulation or order thereunder. The maximum penalty is codified at 49 CFR 578.6(f)(1). The agency last published a rule adjusting the maximum civil penalty for a single violation under 49 U.S.C. Chapter 327 in a rule published on February 4, 1997. 62 FR 5167. In today's rule, NHTSA is adjusting this amount from $2,200 to $3,200 based on the Adjustment Act, for the reasons set forth in the NPRM.

Additionally, the agency is adjusting the maximum penalty amount for a single violation of certain administrative provisions of the EPCA found at 49 U.S.C. 32911(a). The maximum penalty is codified at 49 CFR 578.6(h)(1). This amount was last adjusted in a rule published on February 4, 1997. 62 FR 5167. After applying the statutory formulation described in the NPRM, the maximum civil penalty amount for a single violation is being adjusted from $11,000 to $16,000. The basis for this adjustment is set forth in the NPRM.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866, ''Regulatory Planning and Review.'' This action is limited to the adoption of adjustments of civil penalties under statutes that the agency enforces, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The following

[1] As we indicated in our September 2007 notice of proposed rulemaking, since this rule will become effective in 2008, we used the 2007 consumer price index (CPI) rather than the 2006 CPI in calculating the projected adjustment. Applying the 2007 CPI to our calculations did not alter the final increased amounts that we previously proposed.

provides the factual basis for this certification under 5 U.S.C. 605(b). The amendments potentially affect entities involved with odometers and manufacturers of motor vehicles.

The Small Business Administration's regulations define a small business in part as a business entity ''which operates primarily within the United States.'' 13 CFR 121.105(a). SBA's size standards were previously organized according to Standard Industrial Classification (SIC) Codes. SIC Code 336211 ''Motor Vehicle Body Manufacturing'' applied a small business size standard of 1,000 employees or fewer. SBA now uses size standards based on the North American Industry Classification System (NAICS), Subsector 336—Transportation Equipment Manufacturing, which provides a small business size standard of 1,000 employees or fewer for automobile manufacturing businesses. Other motor vehicle-related industries have lower size requirements that range between 500 and 750 employees.

Many small businesses are subject to the penalty provisions of the odometer laws in 49 U.S.C. Chapter 327. Some small businesses are subject to the EPCA provisions in 49 U.S.C. 32911(a) and therefore may be affected by the adjustments that this final rule makes. As noted in this preamble, this rule increases only the maximum penalty amounts that the agency could obtain for a single violation of the odometer tampering and disclosure provisions and administrative provisions of EPCA. The rule does not set the amount of penalties for any particular violation or series of violations. Under the odometer laws, the applicable penalty provision requires the agency to take into account the ability to pay and any effect on the ability to continue doing business when determining the appropriate civil penalty in an individual case. *See* 49 U.S.C. 32709(a)(3)(B). Although EPCA does not provide for consideration of business size, it contains a provision for the compromise or remittitur of penalties for violations of 49 U.S.C. 32911(a). *See* 49 U.S.C. 32912(a) and 32913(a). The agency would also consider the size of a business under its civil penalty policy when determining the appropriate civil penalty amount for violations of 49 U.S.C. 32701 *et seq.* or 49 U.S.C. 32911(a). *See* 62 FR 37115 (July 10, 1997) (NHTSA's civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (SBREFA)). The penalty adjustments that are promulgated by this rule do not affect our civil penalty policy under SBREFA.

Since this regulation does not establish penalty amounts, this rule will not have a significant economic impact on small businesses.

Small organizations and governmental jurisdictions are not significantly affected as the price of motor vehicles and equipment ought not to change as a result of this rule. As explained above, this action is limited to the adoption of a statutory directive, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with Federalism implications that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The reason is that this rule applies to motor vehicle manufacturers, and not to the States or local governments. Thus, the requirements of Section 6 of the Executive Order do not apply.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, no Unfunded Mandates assessment will be prepared.

National Environmental Policy Act

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it will have no significant impact on the human environment.

Executive Order 12778 (Civil Justice Reform)

This rule does not have a retroactive or preemptive effect. Judicial review of this rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, we state that there are no requirements for information collection associated with this rulemaking action.

List of Subjects in 49 CFR Part 578

Motor vehicle safety, Penalties.

■ In consideration of the foregoing, 49 CFR part 578 is amended as set forth below.

PART 578—CIVIL AND CRIMINAL PENALTIES

■ 1. The authority citation for part 578 continues to read as follows:

Authority: Pub. L. 101–410, Pub. L. 104–134, Pub. L. 106–414, Pub. L. 109–59, 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

■ 2. Section 578.6 of title 49, Code of Federal Regulations, is amended by revising paragraphs (f)(1) as (h)(1) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

* * * * *

(f) *Odometer tampering and disclosure.* (1) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder is liable to the United States Government for a civil penalty of not more than $3,200 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum civil penalty under this paragraph for a related series of violations is $130,000.

* * * * *

(h) *Automobile fuel economy.* (1) A person that violates 49 U.S.C. 32911(a)

is liable to the United States Government for a civil penalty of not more than $16,000 for each violation. A separate violation occurs for each day the violation continues.

* * * * *

Issued on: February 7, 2008.

Nicole R. Nason,

Administrator.

[FR Doc. E8–3518 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071030625–8130–02]

RIN 0648–XC84

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2008 Scup Specifications; Correction

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

ACTION: Final rule; correction.

SUMMARY: On December 31, 2007, NMFS published in the **Federal Register** a final rule containing final specifications for the 2008 scup fishery. Inadvertently, table 3 of the final rule contained incorrect values for the 2008 Adjusted Quota Less Overages and Research Set-Aside (RSA) for the scup quota periods. This document corrects those values.

DATES: Effective February 25, 2008, through December 31, 2008.

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

SUPPLEMENTARY INFORMATION: The final rule, including final quota specifications for the summer flounder, scup, and black sea bass fisheries, was published in the **Federal Register** on December 31, 2007 (72 FR 74197). Table 3 incorrectly lists the following Adjusted Quota Less Overages and RSA values for the scup quota periods: Winter I (2,367,373 lb, 1,074 mt), Summer (1,419,220 lb, 644 mt), Winter II (836,531 lb, 379 mt), and Total (4,623,124 lb, 2,097 mt). The correct amounts for the 2008 scup Adjusted Quota Less Overages and RSA are as follows: Winter I is 2,388,611 lb (1,083 mt); Summer is 1,437,558 lb (652 mt); Winter II is 844,036 lb (383 mt); and Total is 4,670,204 lb (2,118 mt).

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for additional public comment for this action because any delay of this action would be contrary to the public interest. As explained above, this rule corrects values for the 2008 Adjusted Quota Less Overages and RSA that had already been published in the **Federal Register**. To delay this correction notice will cause confusion over the available 2008 scup quota. The correct values for the adjusted quotas are greater than the values currently published in the **Federal Register** and a delay may negatively impact fishermen during the current Winter I quota period (January - April), who may not be able to harvest the full amount of quota allocated to the fishery. Moreover, pursuant to 5 U.S.C. 553(d), the Assistant Administrator finds good cause to waive the 30-day delay in effective date for the reasons given above. Delaying the rule for 30 days may negatively impact fishermen because the correct quota value for all quota periods, including the current Winter I period, are greater than the published values. This may lead to less quota being harvested for the Winter I period than is actually allocated to fishermen.

Correction

Accordingly, the final rule FR Doc. 07–6252, published on December 31, 2007 (72 FR 74197), is corrected as follows:

1. On page 74199, in Table 3, the Adjusted quota less overages and RSA found in columns 11 and 12 for the Winter I Quota period in row 1 are corrected to read ''2,388,611'' lb and ''1,083'' mt, respectively.

2. On page 74199, in Table 3, the Adjusted quota less overages and RSA found in columns 11 and 12 for the Summer Quota period in row 2 are corrected to read ''1,437,558'' lb and ''652'' mt, respectively.

3. On page 74200, in Table 3, the Adjusted quota less overages and RSA found in columns 11 and 12 for the Winter II Quota period in row 3 are corrected to read ''844,036'' lb and ''383'' mt, respectively.

4. On page 74200, in Table 3, the Adjusted quota less overages and RSA found in columns 11 and 12 for the Total Quota in row 4 are corrected to read ''4,670,204'' lb and ''2,118'' mt, respectively.

Dated: February 19, 2008.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E8–3522 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071212833–8179–02]

RIN 0648–XB94

Fisheries of the Northeastern United States; Atlantic Bluefish Fisheries; 2008 Atlantic Bluefish Specifications

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

ACTION: Final rule; final specifications for the 2008 Atlantic bluefish fishery.

SUMMARY: NMFS issues final specifications for the 2008 Atlantic bluefish fishery, including state-by-state commercial quotas, a recreational harvest limit, and recreational possession limits for Atlantic bluefish off the east coast of the United States. The intent of these specifications is to establish the allowable 2008 harvest levels and possession limits to attain the target fishing mortality rate (F), consistent with the stock rebuilding program contained in Amendment 1 to the Atlantic Bluefish Fishery Management Plan (FMP), as well as ensuring compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The final specifications are modified from those contained in the proposed rule as a result of more recent information on recreational harvests.

DATES: This rule is effective March 26, 2008, through December 31, 2008.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment (EA) and the Initial Regulatory Flexibility Analysis (IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901 6790. The specifications document is also accessible via the Internet at *http://www.nero.noaa.gov*. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the

classification section of this rule. The FRFA consists of the IRFA, public comments and responses contained in this final rule, and a summary of impacts and alternatives contained in this final rule. The small entity compliance guide is available from Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 2298, and on the Northeast Regional Office's website at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic bluefish fishery is cooperatively managed by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). The regulations implementing the FMP appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at § 648.160. The management unit for Atlantic bluefish (*Pomatomus saltatrix*) is the U.S. waters of the western Atlantic Ocean.

The FMP requires that the Council recommend, on an annual basis, total allowable landings (TAL) for the fishery, consisting of a commercial quota and recreational harvest limit (RHL). A research set-aside (RSA) quota is deducted from the bluefish TAL (after any applicable transfer) in an amount proportional to the percentage of the overall TAL as allocated to the commercial and recreational sectors. The annual review process for bluefish requires that the Council's Bluefish Monitoring Committee (Monitoring Committee) review and make recommendations based on the best available data, including, but not limited to, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock abundance, discards for the recreational fishery, and juvenile recruitment. Based on the recommendations of the Monitoring Committee, the Council makes a recommendation to the Northeast Regional Administrator (RA). Because the Bluefish FMP is a joint plan with the Commission, the Commission meets during the annual specification process to adopt complementary measures.

In July 2007, the Monitoring Committee met to discuss the updated estimates of bluefish stock biomass and project fishery yields for 2008. In August 2007, the Council approved the Monitoring Committee's recommendations and the Commission's Bluefish Board (Board) adopted complementary management measures. Detailed background information regarding the status of the bluefish stock and the development of the 2008 specifications for this fishery was provided in the proposed specifications (72 FR 73304, December 27, 2007). That information is not repeated here.

RSA Quota

A request for proposals was published to solicit research proposals to utilize RSA in 2006 based on research priorities identified by the Council (December 27, 2006; 71 FR 77726). One research project that would utilize bluefish RSA has been preliminarily approved by the RA and forwarded to the NOAA Grants Office. Therefore, this final rule implements a 50,000–lb (22,680–kg) RSA quota for the 2008 bluefish fishery. If this project is not approved by the NOAA Grants Office, the research quota associated with the disapproved proposal will be restored to the bluefish TAL through publication in the **Federal Register**.

Final Specifications

The FMP specifies that the bluefish stock is to be rebuilt to B_{MSY} over a 9–year period (i.e., by the year 2010). The FMP requires the Council to recommend, on an annual basis, a level of total allowable catch (TAC) consistent with the rebuilding program in the FMP. An estimate of annual discards is deducted from the TAC to calculate the TAL that can be made during the year by the commercial and recreational fishing sectors combined. The TAL is composed of a commercial quota and a RHL. The FMP rebuilding program requires the TAC for any given year to be set based either on the target F resulting from the stock rebuilding schedule specified in the FMP (0.31 for 2008), or the F estimated in the most recent fishing year (F_{2006} = 0.15), whichever is lower. Therefore, the 2008 recommendation is based on an estimated F of 0.15. An overall TAC of 31.887 million lb (14,464 mt) was recommended as the coast-wide TAC by the Council at its August 2007 meeting to achieve the target fishing mortality rate (F = 0.15) in 2008, and to ensure that the bluefish stock continues toward the long-term biomass target, B_{MSY} = 324 million lb (147,052 mt), consistent with the rebuilding schedule specified in Amendment 1. Based on the 2006 biomass estimate (307.5 million lb (139,496 mt)), the bluefish stock is well above the minimum biomass threshold (1/2 B_{MSY} = 162 million lb (73,526 mt)), but is still slightly below the long-term biomass target (B_{MSY} = 324 million lb (147,052 mt)).

The TAL for 2008 is derived by subtracting an estimate of discards of 3.734 million lb (1,694 mt), the average discard level from 2000–2006, from the TAC. After subtracting estimated discards, the 2008 TAL will be 28.156 million lb (12,771 mt), approximately 1.4 percent greater than the 2007 TAL. Based strictly on the percentages specified in the FMP (17 percent commercial, 83 percent recreational), the commercial quota for 2008 would be 4.787 million lb (2,171 mt), and the RHL would be 23.370 million lb (10,600 mt) in 2008. In addition, up to 3 percent of the TAL may be allocated as RSA quota. The discussion below describes the recommended allocation of TAL between the commercial and recreational sectors, and its proportional adjustment downward to account for the recommended bluefish RSA quota.

Council Recommendation: Commercial Quota and Recreational Harvest Limit

As described in the proposed rule, based on the best information available at the time, the Council recommended that 4.088 million lb (1,854 mt) be transferred from the initial recreational allocation of 23.370 million lb (10,600 mt), resulting in a 2008 commercial quota of 8.875 million lb (4,026 mt) and a RHL of 19.281 million lb (8,746 mt). These allocations were also recommended by the Commission to be implemented by the states for fisheries within state waters.

Final 2008 Commercial Quota and Recreational Harvest Limit

Although the Council recommendation was based on the best information available at the time, more recent information, which was not available at the time of the Council's recommendation or at the time of publication of the proposed rule, was used to develop a new recreational landings projection for the 2008 fishing year. This new recreational landings projection, when added to the commercial quota, as adjusted by the proposed transfer of bluefish from the allowable RHL, may cause the TAL to be exceeded. Such a result is inconsistent with § 648.160(c), which requires that the level of transfer be constrained to a level that does not cause the TAL to be exceeded. Based on data provided by the Marine Recreational Fisheries Statistic Survey (MRFSS) program, projected recreational landings in 2007 were approximately 20,414,621 lb (9,260 mt). Using this amount as the

most reasonable proxy for expected landings in 2008, this final rule reduces the amount of the transfer from the recreational to the commercial sector by 1,169,756 lb (531 mt), from 4,088,449 lb (1,854 mt) to 2,918,693 lb (1,324 mt), commensurate with the increase in projected recreational landings. This results in a post-transfer commercial quota of 7,705,244 lb (3,495 mt) and a recreational harvest limit of 20,450,938 lb (9,276 mt). After adjusting for the RSA quota, the resulting 2008 specifications include a commercial quota of 7,691,561 lb (3,489 mt) and a recreational harvest limit of 20,414,621 lb (9,260 mt). The RSA quota remains unchanged at 50,000 lb (22,680 kg).

Additional Adjustment for 2007 New York Overage

In accordance with the regulations at § 648.160(e)(2), NMFS may deduct any overages of the commercial quota landed in any state from that state's annual quota for the following year. Updated landings information for FY 2007 indicate a bluefish quota overage for New York in the amount of 51,719 lb (23,459 kg). This final rule adjusts New York's 2008 bluefish quota downward by this amount to 747,057 lb (338,859 kg), to account for this overage.

Final State Commercial Allocations

The 2008 commercial quota is allocated by state as shown in Table 1, according to the percentages specified in the FMP. The table accounts for New York's 2007 quota overage.

TABLE 1. FINAL BLUEFISH COMMERCIAL STATE-BY-STATE ALLOCATIONS FOR 2008[1]

State	Percent Share	2008 Commercial Quota (lb) RSA Deducted	2008 Commercial Quota (kg) RSA Deducted
ME	0.6685	51,418	23,323
NH	0.4145	31,882	14,461
MA	6.7167	516,619	234,338
RI	6.8081	523,649	237,527
CT	1.2663	97,398	44,180
NY	10.3851	747,057	338.865
NJ	14.8162	1,139,595	516,920
DE	1.8782	144,463	65,528
MD	3.0018	230,885	104,730
VA	11.8795	913,716	414,462
NC	32.0608	2,465,973	1,118,565
SC	0.0352	2,707	1,228
GA	0.0095	731	331
FL	10.0597	773,748	350,972
Total	100.0001	7,639,842	3,465,432

[1] The sum of the individual states does not add up to the final commercial quota of 7,639,841 lb due to rounding.

Recreational Possession Limit

NMFS has approved the Council's recommendation to maintain the current recreational possession limit of 15 fish per person to achieve the RHL.

Comments and Responses

The public comment period on the proposed rule ended on January 28, 2008, with only one comment received.

Comment 1: The commenter suggested that the TAC be reduced by 50 percent initially, and by 10 percent in each subsequent year. The commenter also suggested that a December 2007, hypothermal fish kill in New Jersey had a detrimental impact on the overall bluefish population, and that the scientific methods used to estimate bluefish biomass were inaccurate.

Response: The commenter gave no specific rationale for why the quotas should be reduced in the manner suggested, and there is no known scientific basis for the commenter's suggestions. According to the New Jersey Department of Environmental Protection, the December 2007 fish kill near the Oyster Creek Nuclear Power Generating Station in Ocean County, NJ, killed approximately 5,300 bluefish. Based upon estimates of total bluefish abundance in the June 2007 Bluefish Assessment Summary prepared by the Commission's Bluefish Stock Assessment Sub-Committee, this kill represented less than 0.01 percent of the total bluefish population in 2007 (89.2 million fish). The impact of the fish kill is therefore negligible relative to the total bluefish stock. The reasons presented by the Council and NMFS for recommending the final 2008 bluefish specifications are based on the best available science, and are discussed in the preambles to both the proposed and final rules. Sufficient analysis and scientific justification for NMFS's action in this final rule are contained within the supporting documents.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from review under Executive Order 12866.

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS's responses to those comments, and a summary of the analyses completed to support the action. A copy of the EA/RIR/IRFA is available from the Council (see **ADDRESSES**).

The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being taken, and the objectives of and legal basis for these specifications are explained in the preambles to the proposed rule and this final rule and are not repeated here.

Summary of Significant Issues Raised in Public Comments

One comment was submitted on the proposed rule, but it was not specific to the IRFA or the economic effects of the rule. NMFS has responded to the comment in the Comments and Responses section of the preamble to this final rule. No changes were made to the final rule as a result of the comment received.

Description and Estimate of Number of Small Entities to Which the Rule will Apply

The Small Business Administration (SBA) defines small businesses in the commercial fishing and recreational fishing sectors as firms with receipts (gross revenues) of up to $4.0 million and $6.5 million, respectively. No large entities participate in this fishery, as defined in section 601 of the RFA. This rule could affect any vessels that fish for bluefish in Federal or state waters. The final measures regarding the 2008 quotas could affect any vessels holding an active Federal permit for bluefish, as well as vessels that fish for this species in state waters.

The participants in the commercial sector were defined using two sets of data. First, the

Northeast dealer reports were used to identify any vessel that reported having landed 1 lb (0.45 kg) or more of bluefish during calendar year 2006 (the last year for which there is complete data). These dealer reports identified 725 vessels that landed bluefish in states from Maine to North Carolina. However, this database does not provide information about fishery participation in South Carolina, Georgia, or Florida. South Atlantic Trip Ticket reports were used to identify 820 vessels[1] that landed bluefish in North Carolina and 567 vessels that landed bluefish on Florida's east coast. There were no reported landings of bluefish in South Carolina in 2006, and bluefish landings in Georgia were near zero, representing a negligible proportion of the total bluefish landings along the Atlantic Coast in 2006.

In addition, it was estimated that, in recent years, approximately 2,063 party/charter vessels may have been active and/or caught bluefish. All of these vessels are considered small entities under the RFA, having gross receipts of less than $5 million annually. Since the recreational possession limit will remain at 15 fish per person, there should be no impact on demand for party/charter vessel fishing, and, therefore, no impact on revenues earned by party/charter vessels.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

[1] Some of these vessels were identified in the Northeast dealer data; therefore, double counting is possible.

Description of the Steps Taken to Minimize Economic Impact on Small Entities

Specification of commercial quota, recreational harvest levels, and possession limits is constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Act. The commercial quota and RHL contained in this final rule are 13.2 percent lower and 6.1 percent higher, respectively, than the Council's preferred alternative contained in the proposed rule. Although the commercial quota under this new alternative is lower than the commercial quota recommended by the Council, and lower than the FY 2007 commercial quota of 8,574,939 lb (3,890 mt), it remains approximately 24 percent greater than FY 2007 commercial landings (6,209,915 lb; 2,817 mt). All affected states will receive reductions in their individual commercial quota allocation in comparison to their respective 2007 individual state allocations. However, the magnitude of the reduction varies depending on the state's respective percent share in the total commercial quota, as specified in the FMP, and depending on whether the state had any overages from FY 2007 that needed to be accounted for in this final rule (e.g., New York). NMFS considered a TAL that would have allowed a higher allocation of quota to the commercial sector, but this alternative, proposed by the Council, would have been inconsistent with the goals and objectives of the FMP and the Magnuson-Stevens Act. The new alternative, which will transfer less quota from the recreational sector to the commercial sector than the alternative contained in the proposed rule, is being implemented consistent with recent recreational landings trends and should ensure that the 2008 RHL is not exceeded. Furthermore, the RHL being implemented in this final rule is 8.5 percent higher than the RHL specified in FY 2007. In conclusion, because the 2008 commercial quota being implemented in this final rule is significantly greater than FY 2007 commercial landings, and the 2008 RHL represents an increase over the 2007 RHL, and because the revised 2008 RHL is consistent with recent trends in recreational landings, no negative economic impacts are expected relative to the status quo and the Council's preferred alternative.

The impacts on revenues of the proposed RSA were analyzed; the social and economic impacts are minimal. Assuming that the full RSA of 50,000 lb (22,680 kg) is landed and sold to support the proposed research project (a supplemental finfish survey in the Mid-Atlantic), then all of the participants in the fishery would benefit from the anticipated improvements in the data underlying the stock assessments.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of Federal permits issued for the Atlantic bluefish fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from NMFS (see **ADDRESSES**) and at the following website: *http://www.nero.noaa.gov*.

Dated: February 19, 2008.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E8–3514 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No.061219338–7494–03]

RIN 0648–AU69

Fisheries off West Coast States and in the Western Pacific; Amendment 15 to the Pacific Coast Salmon Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: This final rule implements Amendment 15 to the Pacific Coast Salmon Fisheries Management Plan (Plan) in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action is intended to provide management flexibility in times of low Klamath River

fall-run Chinook (KRFC) abundance, while preserving the long-term productive capacity of the stock and thereby ensuring it continues to contribute meaningfully to ocean and river fisheries in the future.

DATES: This rule will be effective on March 26, 2008.

ADDRESSES: Amendment 15 is available on the Pacific Fishery Management Council's (Council's) website at *http://www.pcouncil.org/salmon/salfmp.html*.

FOR FURTHER INFORMATION CONTACT: Sarah McAvinchey by phone at 206-526–6140, fax 206–526–6736 and email at *sarah.mcavinchey@noaa.gov*, or Eric Chavez by phone at 508–980–4064, email at *eric.chavez@noaa.gov*, fax 508–908–4047 or contact Pacific Fishery Management Council by phone at 503–820–2290 or by fax at 503–820–2299.

SUPPLEMENTARY INFORMATION: The Council prepared Amendment 15 to the FMP under the provisions of the Magnuson-Stevens Act and submitted it for review by the Secretary of Commerce (Secretary). A notice of availability was published on December 20, 2006 (71 FR 76270). The decision to approve the Amendment was made on March 22, 2007, consistent with the Magnuson-Stevens Act. Details of Amendment 15 were given in the proposed rule and are not repeated here. A proposed rule for Amendment 15 was published in the **Federal Register** on May 15, 2007 (72 FR 27276). The comment period on the proposed rule closed on June 28, 2007.

Comments and Responses

During the comment period for proposed rule on Amendment 15 NMFS received 2 comments. One letter was sent by a member of the public, the other was sent by the Yurok Tribe.

Comments received on the proposed rule are addressed here:

Comment 1: The private citizen's letter stated that in order to save salmon runs the Snake River Dams need to be breached.

Response: This is outside the scope of this action.

Comment 2: The Yurok Tribe letter stated their concern regarding the lack of a set reduction schedule of acceptable age-four ocean impact rates on KRFC under the *de minimis* provisions of the Amendment. They encouraged the Secretary not to approve the rule. They stated that their concern was for the long term productivity and health of the KRFC stock and believe that this amendment does not fulfill the Federal Government's tribal trust obligations. They go on to state that this rule will not aid in dealing with the overfished status of the stock. They also referred NMFS to their previously submitted comments on the Amendment during that comment period.

Response: NMFS shares the Yurok Tribe's concerns regarding the long term health of the KRFC stock and understands and takes seriously the trust responsibilities. NMFS believes the Amendment and this final rule are consistent with those responsibilities. NMFS does not interpret Amendment 15 to set a fixed schedule of allowable salmon harvest whenever the forecasted abundance of natural spawners falls within the range of 35,000 to 12,000. Rather, Amendment 15 allows the Council to recommend, without emergency rulemaking, the possibility of some de minimis harvest of KRFC in order to allow mixed stock ocean fisheries to occur when the preseason forecast of naturally-spawning KRFC falls below 35,000.

In recognition of the concerns presented by the Yurok Tribe, NMFS has added more specific language to the regulatory text, to include the specifics of Amendment 15 and the list of considerations that the Council is required to evaluate in setting the age-four ocean impact rate. NMFS has also added a footnote to describe how NMFS interprets implementation of the *de minimis* fishing provisions, and to state that nothing in the Amendment or this final rule automatically predetermines that a particular level of harvest of KRFC will be acceptable or allowed. As noted in the proposed rule the extent of the harvest actually allowed in a particular year will be limited by the general requirements of the Magnuson-Stevens Act to maintain the capacity to produce maximum sustainable yield on a continuing basis, by the specific factors listed in Amendment 15, and by the requirement to meet trust responsibilities to affected Indian tribes.

Changes from the Proposed Rule

In the proposed rule NMFS added paragraph (d) to § 660.410, which lists considerations the Council must make when setting the *de minimis* fishing provisions. This paragraph also includes a footnote stating how NMFS interprets the implementation of the *de minimis* fishing provisions of the Amendment. This final rule revised paragraph (d) to state the required considerations from Amendment 15 and the requirements that NMFS must ensure that age–4 ocean impact rate will not jeopardize the long term capacity of the stock to produce maximum sustainable yield on a continuing basis.

Classification

The Administrator, Northwest Region, NMFS, determined that this final rule is necessary for the conservation and management of the Klamath River Fall-run Chinook fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Council prepared an environmental assessment for this FMP amendment that discusses the impact on the environment as a result of this rule. A copy of the environmental assessment is available from the Council (see **ADDRESSES**).

This final rule has been determined to be significant for purposes of Executive Order 12866.

The final regulatory flexibility analysis (FRFA) consists of the IRFA. No comments were received on the IRFA or on the economic impacts of this rule. A copy of this analysis is available from the Council (see **ADDRESSES**). The FRFA describes the economic impact this final rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows.

Commercial salmon harvesting vessels buyers/processors, and charter/party boats are expected to be the only type of small entities directly impacted by the proposed action. Section 603 (b)(1)-(5) of the RFA identifies the elements that should be included in the IRFA. These elements are bulleted below, followed by information that addresses each element.

•Description of the reasons why action by the agency is being considered:

This action is needed to prevent fishery restrictions that impose severe economic consequences to local communities and states. Historically, KRFC was a primary contributor to marine fisheries off the coasts of Oregon and California. While the FMP amendment seeks to provide management flexibility in times of scarcity, there is an overriding purpose to preserve the long-term productive capacity of the stock to ensure meaningful contributions to ocean and river fisheries in the future.

•Statement of the objectives of, and legal basis for, the final rule:

The Salmon FMP directs ocean salmon fishery management actions relative to the exclusive economic zone(EEZ) off the coasts of Washington, Oregon, and California. Under the existing Salmon FMP, a preseason

projection that the conservation floor for KRFC will not be met triggers a Conservation Alert, which provides the Council and NMFS only one option: to close all salmon fisheries within its jurisdiction that impact the stock. These fisheries include ocean salmon fisheries between Cape Falcon, Oregon and Point Sur, California. Currently, any other option can only be addressed through the emergency regulation process as provided in the Magnuson-Steven Act (MSA) and implemented by NMFS.

The purpose of Amendment 15 is two-fold: (1) to give more flexibility to the management process when the escapement floor of 35,000 natural spawners for KRFC is projected not to be met; and (2) to provide for appropriate opportunities to access more robust Chinook salmon stocks that are typically available in the Council managed area. This rule would, in appropriate circumstances, allow for the Council to develop and recommend fisheries, and NMFS to implement fisheries without the need for an emergency rule in years when the abundance of KRFC are low.

•Description of and an estimate of the number of small entities to which the final rule would apply:

The small entities that would be affected by the proposed action are the vessels that compose the California and Oregon commercial salmon troll fleet and buyers/processors, the charter/party boat fleet between Cape Falcon, Oregon, and Point Sur, California, and other fishery dependent businesses. In years with sufficient surplus, the Yurok and Hoopa Valley Tribes sell salmon in excess of their subsistence needs. The generally acknowledged minimum tribal subsistence need is about 12,000 KRFC. In years that a Conservation Alert is triggered, it is unlikely the tribal share would exceed 12,000 KRFC. Therefore, no analysis of the tribal fishery is included in the IRFA.

Salmon Troll Fleet

The financial impacts analysis focuses on the ex-vessel revenue effects of each alternative on salmon troll vessels. Financial impacts were evaluated based only on changes in salmon ex-vessel revenues relative to the Status Quo Alternative. Vessel counts are based on unique vessel identifiers. However, it is known that in many cases a single firm may own more than one vessel; therefore, the counts should be considered upper bound estimates. Additionally, businesses owning vessels may have revenue from fisheries in other geographic areas, such as Alaska, or from non-salmon fishing activities. Therefore, it is likely that when all operations of a firm are aggregated, some of the small entities identified here are actually larger than indicated. Approximately 2,718 vessels were permitted to operate in the commercial salmon troll fisheries in Oregon and/or California in 2005, although the active fleet was considerably smaller, with an average of approximately 1,068 vessels participating in 2003–2005. In addition, only about 13–19 percent of the active fleet landed 50 percent of the catch, and 52–55 percent of the fleet landed 90 percent of the catch in those years (STT 2006a). Of the 1,068 vessels, 40 percent participated only in salmon fisheries, while the other 60 percent participated in multiple fisheries. All of these vessels would be considered small businesses under the SBA standards. The active fleet participation is dynamic with respect to annual opportunity in the salmon fishery. In years with less opportunity, some salmon vessels choose not to participate, and either engage in other fisheries or sell out. In years with more opportunity, previously inactive vessels may choose to participate, or may be sold to more active fishermen. Under the Status Quo Alternative, there would be no participation in the commercial salmon fishery between Cape Falcon, Oregon and Point Sur, California during years that a Conservation Alert was triggered. Under the fixed cap alternatives, the active fleet was projected to be approximately 268 to 354. The 2003–2005 average salmon related revenue per troll vessel was estimated at $20,900. For salmon only troll vessels the average was $14,300 and for multiple species troll vessels the average was $25,200. Under the fixed cap alternatives, the average salmon-related revenue was projected at $1.6 million to 3.1 million in a Conservation Alert Year and applying a medium troller success rate scenario.

Processors/Buyers

A relatively small number of large processor/buyer firms handle most of the ocean salmon catch on the West Coast. There were 464 firms with state processor/buyer licenses that sold salmon in Oregon and California in 2004 (PFMC and NMFS 2006). These firms include both operators of processing plants and buyers that may do little more than hold the fish prior to their shipment to a processor or market. In some cases, the buyers may be owners of vessels who also own licenses allowing them to sell fish directly to the public or retail markets. Most larger salmon buying firms acquire fish from sites in more than one port. The largest salmon buyers tend to buy salmon from many vessels and buy fish in several ports. The top ocean caught salmon buying firms include some firms that are not among the top fish buyers when all species are counted. Larger processing firms are more likely to handle ocean caught salmon than smaller firms. However, there are many small buyers that specialize in salmon, only handle small amounts of product, and receive product from one or two vessels. It is likely that most of these buyers are vessels that also have licenses allowing them to sell directly to the public or other retail outlets(e.g., restaurants). A thorough analysis of the effects of the Preferred Alternative would include estimates of the numbers of vessels acting as buyers/processors, as well as other buyer/processor sectors, the recent history of revenue generated by the various classes of buyer/processors, and a projection of revenue generated under the Status Quo and Preferred alternatives in Conservation Alert years. However, because many of the small business buyer/processors include vessel ownership, and because most buyer/processors deal in multiple fisheries, it is likely the effects of the Preferred Alternative are proportional to those estimated and projected for the salmon troll fleet above.

Charter/Party Boats

Approximately 103 charter boats participated in California recreational ocean salmon fisheries in 2003–2005 (STT 2006a). In Oregon, there was an average of 211 licensed charter vessels during these same years. An estimated 6 percent of the Oregon charter effort occurred in the Astoria area during 2003–2005 (STT 2006a). In Oregon there was an average of 211 licensed charter vessels. There was no information available for port of operation for Oregon charter vessels, but an average of 18 percent of Oregon charter based salmon trips originated in the Astoria area. There was also no information available on fishery participation for Oregon vessels, and some may not have engaged in salmon fishing. Conversely, it is likely that most of the Charter fleet in both states participated in fisheries other than salmon, such as California halibut, Pacific Halibut, bottomfish, and albacore. Separate economic impact estimates were not available for charter and private boat salmon fishing sectors; however during 2003–2005, Oregon and California recreational salmon fishing effort averaged 297,200 angler trips for both boat types, with charter boat fishing averaging 31 percent of the total during. Based on this assumption the projected state level income impact of the *de minimis* fishery alternatives

under the fixed cap alternatives in a Conservation Alert Year ranged from $6.2 million to $6.8 million dollars. For the Status Quo Alternative the economic impact was about $322,000. Based on an assumed fleet of 314 vessels, the average economic impact per vessel was about $3,200 for the Status Quo Alternative and $19,700 to $21,700 annually for the fixed cap alternatives.

Other Small Businesses

In addition to commercial fishing vessels, other fishery-dependent businesses that may be affected include suppliers, buyers who act as intermediaries between vessels and consumers, processors who purchase raw materials from commercial vessels to produce seafood products, and charter or party vessels that provide recreational fishing experience for paying customers, among others. A thorough accounting of net benefits would include measurement of producer surpluses accruing to these business sectors as well as to fishing vessels.

•A description of the projected reporting, record-keeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities that will be subject to the requirements of the report or record:

There were no new reporting or record-keeping requirements that are proposed as part of this final rule.

•An identification, to the extent practicable, of all relevant Federal rules, which may duplicate, overlap, or conflict with the final rule:

No Federal rules have been identified that duplicate, overlap, or conflict with the alternatives.

•A description of any significant alternatives to the final rule that accomplish the stated objectives that would minimize any significant economic impact of the final rule on small entities:

The decision to set the *de minimis* harvest rate cap at 10 percent was determined through the consideration of ecological, fishery, and economic effects of each alternative. It should be noted that modification of the current 35,000 naturally spawning adult floor to some other value would not address the issue of *de minimis* fishing opportunity in low abundance years, which is a primary reason for approval of Amendment 15 to the FMP. The Council was presented with modeling results from the Salmon Amendment Committee (SAC) at its September 2006 meeting which examined each of the alternatives. These results showed little difference in long term effects on the stock size between each of the proposed alternatives. Differences among the de minimis alternatives (status quo, 5 percent, 10 percent, 13 percent) in terms of aggregate salmon troll revenues and associated income impacts indicated little difference among the alternatives in terms of long-term economic effects. The alternatives, however, indicated more substantial differences when the analysis focused on fishery outcomes in Conservation Alert years. The 13 percent alternative showed a higher probability of the age–4 ocean harvest rate going above 16 percent, which is the Endangered Species Act (ESA) Consultation Standard for threatened California Coastal Chinook. The 13 percent alternative also showed a higher probability of reducing the tributary spawning escapement below 720, which is considered to be a crucial genetic threshold. The 5 percent and the status quo alternatives were also examined and while they would both be a lower catch limit than the 10 percent and 13 percent alternatives they would provide little in the way of economic benefit to the fishery. The 10 percent alternative was chosen because it will not impact the long term productivity of the stock, especially when provisions are set to reduce the cap as needed and it provides some economic relief to the fishery. The model projections showed that the 10 percent alternative would allow for more fishing days, a higher catch of KRFC and a higher revenue than the 5 percent alternative.

This rule provides authority under certain circumstances for *de minimis* fisheries. The specific impacts of annual measures will be assessed annually during the development of annual measures. Additionally, the specific impacts of any de minimis fisheries pursuant to the authority of Amendment 15 will be assessed at that time.

Since 1989, NMFS has listed 27 ESUs of salmonids on the West Coast. As the listings have occurred, NMFS has conducted formal ESA section 7 consultations and issued biological opinions, and made determinations under section 4(d) of the ESA, that consider the impacts to listed salmonid species resulting from proposed implementation of the Salmon FMP, or in some cases, from proposed implementation of the annual management measures. Associated with the biological opinions are incidental take statements that specify the level of take that is expected. Some of the biological opinions have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed salmonid ESUs and provide incidental take statements. Other biological opinions have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration, and provided an incidental take statement for the reasonable and prudent alternative.

NMFS has determined that fishing activities conducted pursuant to this final rule will affect endangered and threatened species and critical habitat under the ESA but will not jeopardize the continued existence of those species. NMFS will continue to assess the impact of the fishery each year during the development of annual measures.

The West Coast ocean salmon fisheries are considered a Category III fishery under the Marine Mammal Protection Act, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals, in the annual list of fisheries published in the **Federal Register**. Based on its Category III status, the incidental take of marine mammals in the West Coast salmon fisheries does not significantly impact marine mammal stocks.

Amendment 15 was developed by the Council, which includes a tribal representative who proposed no objections to the Amendment before NMFS's approval. Klamath River tribes with federally recognized fishing rights may be impacted by Council area fisheries. NMFS notified the Yurok and Hoopa Tribes regarding the changes in this final rule from the proposed rule. In addition, as discussed above the Yurok Tribe submitted comments on the proposed rule. In consideration of those comments NMFS modified the regulatory text in this final rule.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 7, 2008.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reason set out in the preamble, NMFS amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority for part 660 continues to read as follows:

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

■ 2.In § 660.410 revise paragraph (b)(1) and add paragrpah (d) to read as follows:

§ 660.410 Conservation objectives.

(b) * * *

(1) A comprehensive technical review of the best scientific information available provides conclusive evidence that, in the view of the Council, the Scientific and Statistical Committee, and the Salmon Technical Team, justifies modification of a conservation objective: except that the 35,000 natural spawner floor and the *de minimis* fishing provisions for Klamath River fall Chinook may be changed only by amendment.

* * * * *

(d) Within the Cape Falcon to Point Sur area, the Council may allow de minimis fisheries which: permit an ocean impact rate of no more than 10 percent on age–4 Klamath River fall Chinook, if the projected natural spawning escapement associated with a 10 percent age–4 ocean impact rate, including river recreational and tribal impacts, is between the conservation objective (35,000) and 22,000. If the projected natural escapement associated with a 10 percent age–4 ocean impact rate is less than 22,000, the Council shall further reduce the allowable age–4 ocean impact rate to reflect the status of the stock.[1]

(1)When recommending an allowable age–4 ocean impact rate, the Council shall consider the following year specific circumstances:

(i)The potential for critically low natural spawner abundance, including the risk of Klamath Basin substocks dropping below crucial genetic thresholds;

(ii) A series of low spawner abundance in recent years;

(iii) The status of co-mingled stocks;

(iv) The occurrence of El Nino or other adverse environmental conditions;

(v) Endangered Species Act (ESA) considerations; and

(vi) Other considerations as appropriate.

(2) The Klamath River fall Chinook age–4 ocean impact rate must not jeopardize the long term capacity of the stock to produce maximum sustainable yield on continuing basis.

[1] NMFS interprets that, consistent with the *de minimis* provisions of the FMP, the maximum allowable 10 percent age-4 ocean impact rate may be implemented only when the anticipated escapement is near the 35,000 natural spawner floor. As escapement falls below approximately 30,000, the impact rate will need to decline automatically.

[FR Doc. E8–3348 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 37
Monday, February 25, 2008

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. AMS–FV–07–0137; FV08–930–1]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a continuance referendum be conducted among eligible growers and processors of tart cherries in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin to determine whether they favor continuance of the marketing order regulating the handling of tart cherries grown in the production area.

DATES: The referendum will be conducted from March 17 through March 31, 2008. To vote in this referendum, growers and processors must have been engaged in producing or processing tart cherries within the production area during the period July 1, 2006, through June 30, 2007.

ADDRESSES: Copies of the marketing order may be obtained from USDA, Washington DC Marketing Field Office, 4700 River Road, Unit 155, Riverdale, Maryland 20737, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, MD 20737; telephone: (301) 734–5243, Fax: (301) 734–5275, or E-mail: *Patricia.Petrella@usda.gov* or *Kenneth.Johnson@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 930 (7 CFR part 930), hereinafter referred to as the ''order,'' and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by growers and processors. The referendum shall be conducted during the period March 17 through March 31, 2008, among eligible tart cherry growers and processors in the production area. Only growers and processors that were engaged in the production or processing of tart cherries in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin during the period of July 1, 2006, through June 30, 2007, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether growers and processors favor continuation of marketing order programs. USDA would consider termination of the order if continuance is favored by fewer than 50 percent of the growers and processors who vote in the referendum, and growers and processors of less than 50 percent of the volume of tart cherries represented in the referendum favor continuance.

In evaluating the merits of continuance versus termination, USDA will consider the results of the continuance referendum and other relevant information concerning the operation of the order. USDA will evaluate the order's relative benefits and disadvantages to growers, processors, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballot materials used in the referendum herein ordered are currently approved by the Office of Management and Budget (OMB) under OMB No. 0581–0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin. It has been estimated that it will take an average of 20 minutes for each of the approximately 40 processors and 900 growers of tart cherries in the production area to cast a ballot. Participation is voluntary. Ballots postmarked after March 31, 2008, will be marked invalid and not included in the vote tabulation.

Kenneth G. Johnson, Patricia A. Petrella, and Dawana Clark of the Washington, DC, Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct such referendum. The procedure applicable to the referendum shall be the ''Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended'' (7 CFR 900.400 *et seq.*).

Ballots will be mailed to all growers and processors of record and may also be obtained from the referendum agents and from their appointees.

List of Subjects in 7 CFR Part 930

Tart Cherries, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: February 19, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–3494 Filed 2–22–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0197; Directorate Identifier 2008–CE–005–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the

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

> The manufacturer reported findings of missing primer on the internal of the elevator and rudder of aircraft S/N 8200. The aircraft S/N 8200 was with RUAG for maintenance purposes. Investigation performed by RUAG showed that the paint removal procedure for the rudder and elevator was changed from a paint stripping with brush and scraper to a procedure where the parts were submerged in a tank filled with hot liquid stripper. The stripper is called TURCO 5669 from Henkel Surface Technologies. The stripping process is described in the Technical Process Bulletin No. 238799 dated 09/01/1999. This paint stripping process change was not communicated to and not approved by the TC-Holder.

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

DATES: We must receive comments on this proposed AD by March 26, 2008.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0197; Directorate Identifier 2008–CE–005–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, has issued German AD D–2007–350, dated December 19, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The manufacturer reported findings of missing primer on the internal of the elevator and rudder of aircraft S/N 8200. The aircraft S/N 8200 was with RUAG for maintenance purposes. Investigation performed by RUAG showed that the paint removal procedure for the rudder and elevator was changed from a paint stripping with brush and scraper to a procedure where the parts were submerged in a tank filled with hot liquid stripper. The stripper is called TURCO 5669 from Henkel Surface Technologies. The stripping process is described in the Technical Process Bulletin No. 238799 dated 09/01/1999. This paint stripping process change was not communicated to and not approved by the TC-Holder.

The MCAI requires you to do a visual inspection of the inner structure of the rudder and elevator for signs of corrosion, debonded primer (yellow-green), and any other deviation of surface protection; report corrosion beyond the acceptable level or areas with debonded primer to the manufacturer; and, if necessary, repair the affected parts following the applicable FAA-approved manufacturer repair instruction. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

RUAG Aerospace Defence Technology has issued Dornier 228 Service Bulletin No. SB–228–270, dated October 30, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 8 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,920, or $240 per product.

We have no way of determining the number of products that may need any necessary follow-on actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier Luftfahrt GmbH: Docket No. FAA–2008–0197; Directorate Identifier 2008–CE–005–AD.

Comments Due Date

(a) We must receive comments by March 26, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, serial numbers 8009, 8065, 8112, 8179, 8185, 8191, 8241, and 8244, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 51: Structures.

Reason

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

''The manufacturer reported findings of missing primer on the internal of the elevator and rudder of aircraft S/N 8200. The aircraft S/N 8200 was with RUAG for maintenance purposes. Investigation performed by RUAG showed that the paint removal procedure for the rudder and elevator was changed from a paint stripping with brush and scraper to a procedure where the parts were submerged in a tank filled with hot liquid stripper. The stripper is called TURCO 5669 from Henkel Surface Technologies. The stripping process is described in the Technical Process Bulletin No. 238799 dated 09/01/1999. This paint stripping process change was not communicated to and not approved by the TC-Holder.''

The MCAI requires you to do a visual inspection of the inner structure on rudder and elevator for signs of corrosion, de-bonded primer (yellow-green), and any other deviation of surface protection; report corrosion beyond the acceptable level or areas with de-bonded primer to the manufacturer; and, if necessary, repair the affected parts following the applicable FAA-approved manufacturer repair instruction.

Actions and Compliance

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

(1) Within 2 months after the effective date of this AD, do a detailed visual inspection on the inner structure of the rudder and elevator for signs of corrosion, de-bonded primer (yellow-green), and any other deviation of surface protection following RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB–228–270, dated October 30, 2007.

(2) If you find corrosion or areas with debonded primer as a result of the inspection required by paragraph (f)(1) of this AD, before further flight, do the following:

(i) Report the inspection results to RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Federal Republic of Germany, telephone: +49 (0)8153–30–2280; fax: +49 (0) 8153–30–3030 and request FAA-approved repair instructions following RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB–228–270, dated October 30, 2007.

(ii) Repair corrosion following FAA-approved repair instructions obtained from RUAG Aerospace Services GmbH.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI includes provisions for reporting corrosion ''beyond the acceptable level.'' However, the service information does not include a definition of ''acceptable level.'' Therefore, to ensure the AD is clear for U.S. operators and is enforceable, this AD does not include the qualifier ''beyond the acceptable level.''

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI German AD D–2007–350, dated December 19, 2007; and RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB–228–270, dated October 30, 2007, for related information.

Issued in Kansas City, Missouri, on February 13, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3407 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0196; Directorate Identifier 2008–CE–002–AD]

RIN 2120–AA64

Airworthiness Directives; APEX Aircraft Model CAP 10 B Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

> Further to a new fracture in flight of a CAP 10B wing in June 2003, the investigation in process seems to point out that a wrong application of CAP 10B Service Bulletin No. 16 (CAP 10B–57–004) would lead to the impossibility of detecting the potential spar damage while performing the Type Certificate holder upper spar flange inspection.

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

DATES: We must receive comments on this proposed AD by March 26, 2008.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0196; Directorate Identifier 2008–CE–002–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On February 4, 2003, we issued AD 2003–04–02, Amendment 39–13050 (68 FR 7904; February 19, 2003). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2003–04–02, another wing of a Model CAP 10 B airplane cracked in flight.

The Direction Générale de L'Aviation Civile (DGAC), which is the aviation authority for France, has issued AD 2003–375(A), dated October 1, 2003 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Further to a new fracture in flight of a CAP 10B wing in June 2003, the investigation in process seems to point out that a wrong application of CAP 10B Service Bulletin No. 16 (CAP 10B–57–004) would lead to the impossibility of detecting the potential spar damage while performing the Type Certificate holder upper spar flange inspection.

The MCAI requires you to check that the No. 1 wing rib has been modified, comply with load factors and operating limitations, and do repetitive inspections of the upper and lower spar flanges and landing gear attachment blocks.

We are proposing to add new actions, retain actions from AD 2003–04–02, and change the applicability (reduce the number) of the airplanes.

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

Relevant Service Information

APEX Aircraft has issued Avions Mudry & CIE Service Bulletin CAP10B No. 16, dated April 27, 1992; APEX Aircraft Document No. 1000913GB, dated February 4, 2002; APEX Aircraft Document No. 1000914GB, dated February 4, 2002; and APEX Aircraft Document No. 1000915GB, dated February 4, 2002. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 31 products of U.S. registry including those airplanes affected by

AD 2003–04–02. We also estimate that it would take about 20 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $49,600, or $1,600 per product.

The estimated total cost on U.S. Operators includes the cumulative costs associated with those airplanes affected by AD 2003–04–02 and those costs associated with the lesser number of airplanes and the new actions that would be added in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–13050 (68 FR 7804; February 19, 2003), and adding the following new AD:

APEX Aircraft: Docket No. FAA–2008–0196; Directorate Identifier 2008–CE–002–AD.

Comments Due Date

(a) We must receive comments by March 26, 2008.

Affected ADs

(b) This AD supersedes AD 2003–04–02, Amendment 39–13050.

Applicability

(c) This AD applies to Model CAP 10 B airplanes, serial numbers (SNs) 01, 02, 03, 04, and 1 through 282, certificated in any category, which have not been fitted with a replacement wood/carbon wing following application of major change 000302.

Subject

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

Reason

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

''Further to a new fracture in flight of a CAP 10B wing in June 2003, the investigation in process seems to point out that a wrong application of CAP 10B Service Bulletin No. 16 (CAP 10B–57–004) would lead to the impossibility of detecting the potential spar damage while performing the Type Certificate holder upper spar flange inspection.''

The MCAI requires you to check that the No. 1 wing rib has been modified, comply with load factors and operating limitations, and do repetitive inspections of the upper and lower spar flanges and landing gear attachment blocks.

Restatement of Requirements of AD 2003–04–02

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

(1) For Model CAP 10 B airplanes with SNs 01, 02, 03, 04, and 1 through 263, within the next 100 hours time-in-service (TIS) after July 23, 1993 (the compliance date retained from AD 2003–04–02), unless already done, install a permanent inspection opening in the No. 1 wing rib following Avions Mudry Service Bulletin CAP10B No. 16, dated April 27, 1992. Inspection openings are incorporated during production for airplanes having a serial number of 264 or higher.

(2) For all affected airplanes, initially inspect the upper wing spar cap, the main wing spar undersurface, and the landing gear attachment blocks for cracks within the next 55 hours TIS after April 4, 2003 (the compliance date retained from AD 2003–04–02) following APEX Aircraft Document No. 1000913GB, dated February 4, 2002; APEX Aircraft Document No. 1000914GB, dated February 4, 2002; and APEX Aircraft Document No. 1000915GB, dated February 4, 2002. Repetitively inspect the upper wing spar cap and the main wing spar undersurface thereafter at intervals not to exceed 55 hours TIS. Repetitively inspect the landing gear attachment blocks thereafter at intervals not to exceed 1,000 hours TIS.

(3) For all affected airplanes, before further flight if any cracks are found during any inspection required in paragraph (f)(2) of this AD, do the following:

(i) Obtain a repair scheme from the manufacturer through the FAA at the address specified in paragraph (h)(1) of this AD;

(ii) Incorporate this repair scheme; and

(iii) Continue to inspect as specified in paragraph (f)(2) of this AD.

New Requirements of This AD: Actions and Compliance

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

(1) *Load factors limitation:* Before further flight, as of the effective date of this AD, the load factors limitation for solo flight is +5 and −3.5 Gs and when 2 persons are on board is +4.3 and −3.5 Gs.

(2) *Flick (snap roll) maneuvers speed limitation:* Before further flight, as of the effective date of this AD, for positive and negative flick maneuvers, the airspeed limitation is 160 km/hour (86 knots).

(3) Fabricate a placard that incorporates the following words (using at least 1/8-inch letters) and install this placard on the instrument panel within the pilot's clear view: ''THE NEVER EXCEED AIRSPEED FOR POSITIVE OR NEGATIVE FLICK MANEUVERS IS 160 KM/H (86 KNOTS). THE LOAD FACTORS LIMITATION FOR SOLO FLIGHT IS +5 AND −3.5 Gs AND WHEN 2 PERSONS ARE ON BOARD IS +4.3 AND −3.5 Gs.''

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: This AD does not include the requirement from the MCAI to route the request to operate beyond the load factors limitation and flick (snap roll) maneuvers speed limitation through the DGAC. You may make this request to the FAA following paragraph (h)(1) of this AD.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures

found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(i) Refer to MCAI French AD 2003–375(A), dated October 1, 2003; Avions Mudry & CIE Service Bulletin CAP10B No. 16, dated April 27, 1992, APEX Aircraft Document No. 1000913GB, dated February 4, 2002; APEX Aircraft Document No. 1000914GB, dated February 4, 2002; and APEX Aircraft Document No. 1000915GB, dated February 4, 2002, for related information.

Issued in Kansas City, Missouri, on February 14, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3411 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0242; Directorate Identifier 2007–NE–51–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80C2 and CF6–80E1 Series Turbofan Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for General Electric Company (GE) CF6–80C2 and CF6–80E1 series turbofan engines. This proposed AD would require replacement of all clevis pins installed on the thrust reverser central drive units and upper and lower actuators, or replacement of pins that fail an on-wing rebound hardness test. This proposed AD results from failure of a thrust reverser during landing due to unapproved clevis pins being installed. The failure was due to lack of clevis pin hardness. We are proposing this AD to prevent thrust reverser failure, which could lead to damage to the thrust reverser and airplane.

DATES: We must receive any comments on this proposed AD by April 25, 2008.

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

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

FOR FURTHER INFORMATION CONTACT: Christopher Richards, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *Christopher.j.richards@faa.gov;* telephone: (781) 238–7133, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–0242; Directorate Identifier 2007–NE–51–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

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

Discussion

In January 2007, an MD–11 airplane landed with one actuator on a thrust reverser inoperative. When a single actuator is inoperative, the thrust reversers are designed to continue normal operation until the next inspection. Upon landing, the thrust reversers deployed and two of the clevis pins failed on the thrust reverser with one actuator inoperative. These failures caused a transcowl to separate from the thrust reverser damaging the thrust reverser and airplane, and causing the transcowl to become hazardous debris on the runway. Investigation revealed that:

- The lower actuator on the affected thrust reverser had failed some time before the incident; and
- Of the three thrust reverser central drive unit clevis pins affected, one clevis pin was found sheared in half, with part of the pin still in place in the rod-end bearing and clevis. The pin was an unapproved part, made of carbon steel alloy, which had too low a strength and hardness for this application.
- One of the clevis pins remained installed, and was found to be an approved part clevis pin and with the correct hardness of 31 to 38 Rockwell Hardness (C Scale).
- The third clevis pin was not found.

This condition, if not corrected, could result in thrust reverser failure, which could lead to damage to the thrust reverser and airplane.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require replacement of all clevis pins installed on the thrust reverser central drive units and upper and lower actuators, or replacement of pins that fail a rebound hardness test.

Costs of Compliance

We estimate that this proposed AD would affect 802 CF6–80C2 series turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about one work-hour per engine to perform the proposed rebound hardness test and three work-hours per engine to replace the six pins. The average labor rate is $80 per work-hour. Pins cost about $144 per pin. If all pins are replaced, we estimate the total cost of the proposed AD to U.S. operators to be $949,568. CF6–80E1 series turbofan engines are not currently installed on U.S. registered airplanes, so we did not estimate any cost for them.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2007–0242; Directorate Identifier 2007–NE–51–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by April 25, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) CF6–80C2 and CF6–80E1 series turbofan engines. These engines are installed on, but not limited to, Airbus A300–600/R/F, A310–200/–300, and A330–200/–300 airplanes, Boeing 747–300/–400/–400ER, and 767–200/–200ER/–300/–300ER/–400ER airplanes, and MD–11 airplanes.

Unsafe Condition

(d) This AD results from failure of a thrust reverser during landing due to unapproved clevis pins being installed. The failure was due to lack of clevis pin hardness. We are issuing this AD to prevent thrust reverser failure, which could lead to damage to the thrust reverser and airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within 18 months or 4,500 flight hours after the effective date of this AD, whichever occurs first, unless the actions have already been done.

(f) Replace the six clevis pins installed on the thrust reverser central drive units and actuators with clevis pins that pass the hardness test identified in paragraphs (g)(1) through (g)(4) below; or

(g) Perform a rebound hardness test of installed thrust reverser central drive unit and actuator clevis pins as follows:

(1) Remove any corrosion from the head of the pin.

(2) Perform the rebound hardness test on the head of the clevis pin.

(3) If the hardness measured is outside of the range of 31 to 38 Rockwell Hardness (C Scale), replace the clevis pin with an approved part clevis pin.

(4) If the hardness measured is within the range of 31 to 38 Rockwell Hardness (C Scale), and the pin has no visible defects, the clevis pin can remain in service, as allowed per the engine maintenance manual.

(5) Perform the steps in paragraphs (g)(1) through (g)(4) to all six clevis pins on the thrust reverser.

Install Approved Part Clevis Pins

(h) After the effective date of this AD, do not install any thrust reverser central drive unit and actuator clevis pins that do not pass the hardness test of paragraphs (g)(1) through (g)(4) of this AD.

Alternative Methods of Compliance

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

Related Information

(j) Contact Christopher Richards, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *Christopher.richards@faa.gov;* telephone: (781) 238–7133, fax: (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on February 15, 2008.

Peter A. White,

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

[FR Doc. E8–3463 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107592–00]

RIN 1545–BA11

Consolidated Returns; Intercompany Obligations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a portion of a notice of proposed rulemaking (REG–107592–00) published in the **Federal Register** on September 28, 2007 (72 FR 55139). The withdrawn portion relates to the treatment of transactions involving the provision of insurance between members of a consolidated group.

FOR FURTHER INFORMATION CONTACT: Frances L. Kelly, (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 28, 2007, the IRS and the Treasury Department published a notice of proposed rulemaking (REG–107592–00) in the **Federal Register** (72 FR 55139) which proposed to amend § 1.1502–13(g) (regarding the treatment of transactions involving obligations between members of a consolidated group) and to add § 1.1502–13(e)(2)(ii)(C) (regarding the treatment of certain transactions involving the provision of insurance between members of a consolidated group).

Under proposed § 1.1502–13(e)(2)(ii)(C), certain intercompany insurance transactions would be taken into account on a single entity basis. Written comments were received with respect to proposed § 1.1502–13(e)(2)(ii)(C). After consideration of these comments, the IRS and the Treasury Department have decided to withdraw proposed § 1.1502–13(e)(2)(ii)(C). However, the IRS and the Treasury Department continue to study whether revisions to the rules for intercompany transactions are necessary to clearly reflect the taxable income of consolidated groups.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Partial Withdrawal of a Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805 and 26 U.S.C. 1502, § 1.1502–13(e)(2)(ii)(C) of the notice of proposed rulemaking (REG–107592–00) that was published in the **Federal Register** on September 28, 2007 (72 FR 55139) is withdrawn.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 08–823 Filed 2–20–08; 8:48 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107592–00]

RIN 1545–BA11

Consolidated Returns; Intercompany Obligations; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations regarding the treatment of transactions involving obligations between members of a consolidated group and the treatment of transactions involving the provision of insurance between members of a consolidated group.

DATES: The public hearing, originally scheduled for Friday, February 29, 2008, at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Funmi Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–3628 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of public hearing that appeared in the **Federal Register** on Thursday, January 24, 2008 (73 FR 4131) announced that a public hearing was scheduled for Friday, February 29, 2008, at 10 a.m., in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing was the notice of proposed rulemaking (REG–107592–00) that was published in the **Federal Register** on Friday, September 28, 2007 (72 FR 55139). Specifically, the hearing was to address the addition of proposed § 1.1502–13(e)(2)(ii)(C). Proposed regulation § 1.1502–13(e)(2)(ii)(C), that was the subject of the hearing, has been withdrawn. Therefore the public hearing scheduled for February 29, 2008, is cancelled.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 08–822 Filed 2–20–08; 8:48 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

[FWS–R9–LE–2008–0024; 99011–1224–0000–9B]

RIN 1018–AV31

Importation, Exportation, and Transportation of Wildlife; Inspection Fees, Import/Export Licenses, and Import/Export License Exemptions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of meeting.

SUMMARY: We propose to revise subpart I—Import/Export Licenses, of title 50 of the Code of Federal Regulations, part 14, (50 CFR 14) to clarify the import/export license and fee requirements, adjust the user fee schedule and update license and user fee exemptions. We propose to clarify when an import/export license is required by persons who engage in the business of importing and exporting wildlife as well as change the license requirement exemptions. Revised regulations will help those importing and exporting wildlife better understand when an import/export license is required and will allow us to consistently apply these requirements. We also propose to change our user fee structure for the importation and exportation of wildlife and the fee exemptions. We propose to generally increase these fees and publish the changes for 2008 through 2012. We determined that these fees must be adjusted every year to cover the increased cost of providing these services. By publishing these user fee changes in advance, importers and exporters can accurately predict the costs of importing and exporting wildlife several years in advance.

DATES: We will accept comments received or postmarked on or before April 25, 2008. See the **SUPPLEMENTARY INFORMATION** section for information on the date of the public meeting.

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

- Federal eRulemaking portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: [RIN 1018–AV31]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://*

www.regulations.gov. This generally means that we will post any personal information that you provide to us (see the Public Comments section below for more information).

Public Meeting: A public meeting will be held on April 3, 2008, from 1 to 4 p.m. in Room 200, U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Arlington, Virginia, during which we will accept written comments.

FOR FURTHER INFORMATION CONTACT: Kevin Garlick, Special Agent in Charge, Branch of Investigations, Office of Law Enforcement, U.S. Fish and Wildlife Service, telephone (703) 358–1949, fax (703) 358–1947.

SUPPLEMENTARY INFORMATION:

Public Comments Requested

We intend that any final action resulting from this proposed rule will be as accurate and effective as possible. The Service invites interested persons to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this proposed rule. Comments that will provide the most assistance to us in developing this rule will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support that recommended change. Therefore, we request comments or suggestions from the public, other concerned government agencies, the scientific community, industry, or any other interested party concerning this proposed rule.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments you send by e-mail or fax or to an address not listed in the **ADDRESSES** section. We will not accept anonymous comments; your comment must include your first and last name, city, State, country, and postal (zip) code. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in addition to the required items specified in the previous paragraph, such as your street address, telephone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov.,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Office of Law Enforcement, 4501 North Fairfax Drive, Suite 3000, Arlington, VA.

Public Assistance for Import/Export Questions

We highly recommend that you contact our wildlife inspectors about importing and exporting procedures and requirements before you import or export your wildlife. We have wildlife inspectors stationed at numerous ports throughout the country. You can find contact information for our wildlife inspectors on our Web site at: *http://www.fws.gov/le/ImpExp/inspectors.htm.* In addition, the Service has a telephone hotline that is staffed Monday through Friday, 8 a.m. through 8 p.m. Eastern time, that can provide assistance for any questions you may have regarding importing and exporting wildlife, at 1–800–344–WILD.

Public Meeting

A public meeting will be held on April 3, 2008, from 1 to 4 p.m. in Room 200, U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Arlington, Virginia. All interested persons wishing to present oral comments at this meeting must submit a written copy of their oral comments at the meeting. Oral comments may be limited based upon the number of persons wishing to speak at the meeting. We will accept written comments at the public meeting.

Background

The regulations contained in 50 CFR part 14 provide individuals and businesses with guidelines and procedures to follow when importing or exporting wildlife, including parts and products. These regulations explain the requirements for individuals or businesses importing or exporting wildlife for commercial purposes, those moving their household goods, personal items, or pets, and the exemptions provided for specific activities or types of wildlife. The regulations at 50 CFR part 14 provide individuals and businesses with the specific ports and locations where these activities may be conducted and any fees that may be charged as a result of these activities.

The following parts of this preamble explain the proposed rule and present a discussion of the substantive issues of each section that we propose to change in subpart I of part 14. We retained the current organizational structure of subpart I but propose changes to the requirements for an import/export license, how to apply for an import/export license, what user fees apply to importers and exporters, and what exemptions we apply to licenses and fees.

Proposed Import/Export License Requirements

We propose to remove the definition of ''engage in business as an importer or exporter of wildlife'' because the elements of the definition are already expressed in the current definition of ''commercial,'' and the broader definition of commercial more accurately reflects what we consider as ''engaging in business.''

We propose to remove the section on certain persons required to be licensed and replace it with a table that provides examples of when we consider persons to be engaging in business as an importer or exporter of wildlife. We propose to limit who should be licensed to those persons directly involved with importing and exporting wildlife. Therefore, we propose to eliminate requirements for persons who are indirectly involved with a shipment either before or after our clearance of the shipment.

Proposed Exemptions To Import/Export License Requirements

We propose to remove two exemptions from our import/export license requirements for businesses that import or export products from several mammal species that have been bred and born in captivity and for circuses that import or export wildlife.

Our current regulations allow businesses that exclusively import or export chinchilla, fisher, fox, marten, mink, muskrat, and nutria that have been bred and born in captivity, and products of these animals, to conduct business without obtaining an import/export license. If a particular business chooses to import or export wild specimens of these species or species other than those listed above, they must obtain an import/export license.

We propose to remove the import/export license exemption in § 14.92 for businesses that exclusively import or export chinchilla, fisher, fox, marten, mink, muskrat, and nutria that have been bred and born in captivity or products of these animals. Our current import/export license regulations also exempt businesses that import or export products from the rabbit and karakul. The rabbit and karakul, which is a variety of the domestic sheep, are defined to be domesticated species and

are, therefore, already exempted from all Service import or export requirements.

Our import/export data shows that the majority of businesses that import or export mammals or products made from mammals do not deal exclusively in chinchilla, fisher, fox, marten, mink, muskrat, and nutria that have been bred and born in captivity. Rather, most businesses deal in a mixture of these species and other species that do not qualify for the import/export license exemption, or the trade is in wild-caught specimens. Only approximately 1.5 percent of the shipments declared to us in fiscal year 2005 consisted exclusively of captive-bred specimens of the above-listed species. Although many businesses have not taken advantage of the exemption, any exempted shipments still require our inspection and clearance.

All other wildlife types that are identified as being exempt from the import/export license, such as certain shellfish and nonliving fish products, are also wildlife that the Endangered Species Act (16 U.S.C. 1531 *et seq.*) or these regulations have exempted from inspection and clearance. No statutory or regulatory inspection or clearance exemptions are provided for captive-bred mammals or their products. This exemption has had the unfortunate consequence of creating a monetary incentive for the global trade community to falsely declare wild mammal specimens as captive-bred upon import into the United States. In addition, due to shipping and other business practices, importers of foreign-sourced mammal products imported into the United States are more likely to declare the products as captive-bred for purposes of claiming the exemption than exporters of U.S.-sourced mammal products.

Because these specific captive-bred mammal shipments are exempt from the import/export license, the corresponding importers or exporters are not required to maintain records of their imports or exports or any subsequent dispositions and do not have to provide the Service with access to these records or inventories of wildlife upon reasonable notice. The lack of recordkeeping requirements and access to these records hinders our ability to investigate instances of false declarations. These corresponding importers and exporters are also exempt from paying user fees and filing reports with the Service upon request. Based upon all the problems that have resulted with this exemption, we propose to remove the exemption to the import/export license for persons engaging in the business of importing or exporting shipments containing only chinchilla, fisher, fox, marten, mink, muskrat, and nutria that have been bred and born in captivity or their products.

We also propose that circuses no longer qualify for the exemption from our import/export license requirements. Our current import/export regulations allow certain persons and businesses, including circuses, to import or export wildlife without obtaining an import/export license. However, with the exception of circuses, it is apparent that these exempt businesses or organizations, which include common carriers, custom house brokers, public museums, scientific or educational institutions, and government agencies, are not engaging in business as importers or exporters of wildlife. While circuses typically do not import or export wildlife for resale, they do import or export wildlife to stimulate additional business, through ticket sales or other promotions. We, therefore, consider circuses to be importing or exporting wildlife for commercial purposes and believe they should not be exempted from our import/export license requirements. Other shipments of wildlife imported or exported as part of commercial entertainment, such as magic acts or animal shows, are considered commercial as well and are not exempt from import/export license requirements.

Proposed Import/Export License Application Requirements

We propose to remove the specific additional information language from the current § 14.93(b) because the import/export license application form, FWS Form 3–200–3, is updated and contains this additional specific information. We also propose to reorganize the license conditions section for clarity and to add the requirement that importers and exporters are responsible for providing current contact information, including a mailing address, to be used for official notifications from the Service.

We propose to reorganize the section that outlines issuance, denial, suspension, revocation, or renewal of an import/export license for clarity. We also propose to add two new factors that are grounds for suspension, revocation, denial, or renewal of an import/export license. Although these factors are already generally covered by the regulations in part 13 of subchapter B of chapter I of title 50, we wish to bring these two factors to the attention of wildlife importers and exporters. We propose to consider repeated failure to provide the required prior notification for certain shipments as possible grounds for action against an existing import/export license holder or during consideration of a new or renewal import/export license application. Failure by importers or exporters to provide this required notification risks the health or condition of live and perishable shipments because of clearance delays and requires us to accommodate last-minute inspection schedule changes that directly impact the schedules of other importers or exporters.

We also propose to add the repeated import or export of certain types of wildlife without following the requirements in this subpart as grounds for action against an existing import/export license holder or during consideration of a new or renewal import/export license application. This repeated failure to follow requirements for certain wildlife imports or exports may result in a restriction of the license to disallow engaging in business with those particular types of wildlife while still allowing the importer or exporter to continue to engage in business with other wildlife.

Proposed Inspection Fees

The regulations in 50 CFR part 14 contain a user fee schedule for inspections of wildlife shipments. We propose to change the user fee structure and generally increase fees to cover the increased cost of providing these services and the required support. The user fees currently apply primarily to commercial importers and exporters whose shipments of wildlife are declared to, and inspected and cleared by, Service wildlife inspectors, to ensure compliance with wildlife protection laws. These fees are not intended to fully fund the wildlife inspection program, which includes both a compliance monitoring function, involving services to the trade community, and a vital smuggling interdiction mission focused on detecting and disrupting illegal wildlife trade. The proposed fee increase will appropriately focus only on recovering costs associated with services provided to importers and exporters engaged in legal wildlife trade.

In developing this proposed rule, the Service is guided by the Independent Offices Appropriations Act of 1952, codified at 31 U.S.C. 9701 (''the User Fee Statute''), which mandates that services provided by Federal agencies are to be ''self-sustaining to the extent possible.'' We are also guided by the Office of Management and Budget (OMB) Circular No. A–25, Federal user fee policy, which establishes Federal policy regarding fees assessed for

government services. It provides that user fees will be sufficient to recover the full cost to the Federal Government of providing the service, will be based on market prices, and will be collected in advance of, or simultaneously with, the rendering of services. The policy requires Federal agencies to recoup the costs of ''special services'' that provide benefits to identifiable recipients. The Endangered Species Act (16 U.S.C. 1540(f)) also authorizes the Service to charge and retain reasonable fees for processing applications and for performing reasonable inspections of importation, exportation, and transportation of wildlife. The benefit of user fees is the shift in the payment of services from taxpayers as a whole to those persons who are receiving the government services. While taxes may not change by the same amount as the change in user fee collections, there is a related shift in the appropriations of taxes to government programs, which allows those tax dollars to be applied to other programs that benefit the general public. Therefore, there could be a relative savings to taxpayers as a result of the changes in user fees.

The inspection and clearance of wildlife imports and exports is a special service, provided to importers and exporters who are authorized to engage in activities not otherwise authorized for the general public. Our ability to effectively provide these services and the necessary support for these services depends on inspection fees. Although the Service began collecting user fees in February 1986, we have been unable to achieve full cost recovery as several categories of importers and exporters have been exempt from paying fees, and fees were not established at levels that would cover all costs of the services provided to the trade community. Exempt business have included most noncommercial importers/exporters; companies dealing in specific captive-bred or personally trapped furs, meat from bison, ostrich, and emu, and aquacultured sturgeon food items; and circuses. The current fee schedule has been in place since 1996. These fees were calculated based solely upon the salary and benefits of a journeyman-level wildlife inspector and did not attempt to recover other costs of conducting compliance inspections and providing clearance services to the wildlife trade community. Commercial importers or exporters, entities that hold a Service import/export license, now pay a flat rate of $55 per shipment for inspections at designated ports during normal working hours. Additional per-hour charges are applied when inspections are conducted outside normal working hours; non-licensees receiving inspections outside normal working hours also pay these hourly charges.

All importers or exporters, whether licensed or not, pay a $55 administrative fee for inspections at a staffed nondesignated port plus a 2-hour minimum of $20 per hour for inspections during normal working hours. Higher hourly charges apply for inspections outside normal working hours. Inspections at nondesignated ports that are not staffed by Service inspectors are charged all costs associated with providing the inspection, including salary, travel, transportation, and per diem costs.

The proposed user fee structure will consist of a flat rate base inspection fee based upon the type of port: $85.00 for designated ports or ports acting as designated ports; $133.00 for staffed, nondesignated ports; and $133.00 for nonstaffed, nondesignated ports, that reflects the recovery of specific direct and indirect costs; and two premium inspection fees, each $19.00, reflecting additional labor costs associated with specific types of commodities. The proposed structure also provides for overtime fees. The proposed fees reflect the cost of the services provided for routine shipments, shipments that contain species that are protected by Federal or international law, and shipments that contain live specimens. We propose that routine shipments would be charged a base inspection fee based upon the type of port. We propose that shipments containing protected species or live specimens would be charged a premium inspection fee in addition to the base inspection fee. If a shipment contains both protected species and live specimens, we propose to charge two premium inspection fees in addition to the base inspection fee.

For commercial shipments at designated ports, our current regulations require an inspection fee of $55. The proposed fee structure requires an $85 base inspection fee for inspections at these ports. These shipments would result in an additional $30 in inspection fees per shipment ($85 − $55) under the new fee structure. For fiscal year 2005, we inspected 83,203 shipments at designated ports that did not contain species that are protected by Federal or international law or live specimens.

In addition to the nonstaffed, nondesignated port base inspection fee, we propose that all importers or exporters who use these types of ports will be required to pay any associated travel and per diem expenses needed for our wildlife inspector to conduct an inspection at these ports. Our current regulations require importers or exporters who use these types of ports to pay these travel and per diem expenses plus the salary of the wildlife inspector conducting the inspection in addition to a base hourly administrative fee. The proposed fee structure simplifies the fees for a nonstaffed, nondesignated port to include a flat rate base fee of $133 to use these ports, which incorporates the salary of the wildlife inspector conducting the inspection, in addition to any travel and per diem costs. Importers and exporters using this type of port would also be responsible for payment of premium fees if their shipment includes live or protected specimens, as is the case at the other types of ports.

We propose to publish 5 years worth of fees and apply an inflation factor to the base fees, premium fees, and overtime fees. Throughout the 5-year period, we propose to increase the base inspection fees annually based upon inflation using the Gross Domestic Product (GDP) indices. We propose to increase the premium inspection fees gradually over the 5-year period, reflecting both inflation and a gradual move to 100 percent cost recovery. By publishing these user fee changes for the 5-year period, importers and exporters of wildlife can incorporate these fee increases into their budget planning.

Calculation of the Proposed Inspection Fees

For these proposed fee increases, we conducted an economic analysis of the costs associated with the services provided to the legal wildlife trade community, and we propose to create a user fee template that will form the basis for the determination of user fee increases for a 5-year period. The economic analysis uses data on shipment types and quantities, inspection times required for different types of shipments, and direct and indirect costs associated with the services provided to the legal wildlife trade community.

In order to recalculate these inspection fees, we began by analyzing the actual total costs of providing services to the legal wildlife trade community during fiscal year 2005, as compared to the actual total money that we collected for activities authorized by the wildlife inspection program during fiscal year 2005.

The total costs include wildlife inspector salaries and benefits, the appropriate portion of our managers' salaries and benefits, direct costs such as vehicle operation and maintenance, equipment purchase and replacement,

data entry and computer support for the Service's electronic filing system, communications costs, office supplies, uniforms, and administrative costs and indirect costs such as office space. We calculated these costs using a Service-wide standard of 22 percent of direct costs. The total cost of providing services to the legal wildlife trade community during fiscal year 2005 was $20,083,627.

The total amount of money that we collected for activities authorized by the wildlife inspection program during fiscal year 2005 was $8,724,289. It must be noted that this total includes application fees for import/export licenses, designated port exception permits, and Convention on International Trade in Endangered Species (CITES) permits and certificates, as well as inspection and overtime fees. Currently, our data does not distinguish between license and permit fees and inspection fees. However, it is readily apparent that whatever portion of this total is derived from inspection fees, it falls well below the total costs associated with the wildlife trade compliance program during fiscal year 2005.

The inspection of shipments that contain species protected by Federal or international law, or live specimens, requires considerably more knowledge, time, and equipment than is required for a routine shipment. In addition to the increased time required for document inspection and handling of the shipment, the inspection of these ''premium'' shipments requires more thorough knowledge of Federal or international law or, in the case of shipments containing live specimens, the use of equipment that provides for the safety of the wildlife inspector conducting the inspection.

In addition, there are other costs associated with the inspection of premium shipments. In many instances, foreign documents that are presented for clearance of shipments containing protected species under CITES or foreign wildlife laws must be verified with foreign governments, a process that can be extremely time consuming. These foreign documents must be stored and recorded in our electronic database. Data on shipments containing wildlife protected under CITES must be analyzed for quality and reported internationally on an annual basis, as one of our obligations as a party nation to this international treaty.

Since the trade compliance portion of the wildlife inspection program is to be ''self-sustaining to the extent possible,'' we propose a user fee structure that will provide 100 percent cost recovery by the end of the 5-year period. If we had developed a user fee structure to provide 100 percent cost recovery immediately, the initial premium fees would have been substantially higher than the proposed premium fees described in this proposed rule.

During the development of the proposed fee structure, we estimated the inflation rate based upon the GDP. The GDP indices are obtained from the Economic Report of the President, which projects the growth of real GDP. For the 5-year period covered in this proposed rule, the GDP indices were as follows: 2.1 percent for 2008, 2009, and 2010 and 2.2 percent for 2011 and 2012. We decided to use inflation using the GDP indices as the only factor contributing to the increased costs by the end of the 5-year period. This is a conservative approach since wildlife inspector salaries and benefits could increase at a substantially greater rate than inflation by the end of the 5-year period. While salaries may increase consistent with inflation, promotions would increase salaries considerably more than inflation.

In order to recalculate these inspection fees, we estimated what the fiscal year 2005 base inspection fees and premium inspection fees would need to be to provide 100 percent cost recovery by the end of the 5-year period, and inflated those fees to 2008 dollars. We used this approach because this proposed rulemaking will not be finalized until 2008 and if, at that time, we used 2005 dollars consistent with actual total costs during fiscal year 2005, 100 percent cost recovery by the end of the 5-year period would not be possible.

It is extremely difficult to estimate what portion of the total amount of money that we collected for activities authorized by the wildlife inspection program was derived from travel and per diem expenses and overtime fees we received. Currently, our data does not distinguish between license and permit fees and inspection fees, which include travel and per diem expenses and overtime fees we received. However, it is readily apparent that these amounts are a very small portion of the total amount that is derived from inspection fees, and will have little impact on the total amount of money that we collect for activities authorized by the wildlife inspection program. Therefore, during the development of the proposed fee structure, we decided not to include overtime fees, or salary, travel, and per diem expenses collected at a nonstaffed, nondesignated port, which can be highly variable.

During the development of the user fee template, we considered the impact that increased user fees would have on small businesses. Essentially all of the businesses that engage in commerce by importing or exporting wildlife would be considered small businesses according to the Small Business Administration (SBA). Examples of some of these businesses can be placed in the following SBA categories: ''Zoos and Botanical Gardens,'' with an SBA size standard of $6.0 million in average annual receipts; ''Merchant wholesalers, nondurable goods,'' with an SBA size standard of 100 employees; ''Leather and allied product manufacturers,'' with an SBA size standard of 500 employees; and ''Clothing and Clothing Accessories Stores,'' with an SBA size standard ranging from $6.0 million to $7.5 million in average annual receipts.

Since essentially all of these businesses are small, we believe that those companies who deal with more complex shipments that require additional services from us, such as those containing species that are protected by Federal or international law, or live specimens, should assume a greater share of the costs associated with the additional services, rather than us spreading these additional costs out among all importers and exporters.

To help determine how realistic our proposed fee increases were, we decided to calculate what the user fees in place since 1996 would be equal to in the beginning of and by the end of the 5-year period, based only on inflation using the GDP indices. This calculation yielded an inspection fee of $70 for 2008, and an inspection fee of $76 by the end of the 5-year period in 2012. Both of these projected fees are quite close to the proposed base inspection fee of $85.00. Recognizing that the 1996 user fees were based only on the salary and benefits of a journeyman-level wildlife inspector and did not take into account all of the other costs associated with the services provided to the legal trade community, the proposed $85.00 base inspection fee, which is based on all of the associated costs of the wildlife inspection program, is reasonable.

Exemptions to the Proposed Inspection Fees

During the development of the user fee template, we decided that some individuals, organizations, or certain commodities should be exempt from the proposed inspection fees. Governments agencies at the Federal, State, local, or tribal level have been exempt from inspection fees in the past and will continue to be exempt from the

proposed inspection fees, including overtime fees.

Individuals who import or export shipments of 100 or fewer raw furs or, raw, salted, or crusted mammal hides or skins between the United States, Canada, or Mexico, have been exempt from inspection fees in the past and will continue to be exempt from the proposed designated port base inspection fees. However, this exemption applies only to shipments of mammal furs, hides, or skins lawfully taken from the wild by those individuals or their family members in the United States, Canada, or Mexico, from species that are not protected under parts 17, 18, or 23 of title 50. These individuals will still require an import/export license and be responsible for overtime fees for any shipments inspected outside normal working hours.

Individuals or organizations who import or export shipments of wildlife for noncommercial purposes at designated ports that do not contain species that are protected by Federal or international law, or live specimens, will continue to be exempt from the proposed designated port inspection fees. These individuals will still be responsible for overtime fees for any shipments inspected outside normal working hours and all fees for import or export through a nondesignated port.

We propose that individuals or organizations who import or export shipments of wildlife for noncommercial purposes at designated ports, that do contain species that are protected by Federal or international law, or live specimens, will pay proposed premium inspection fees when importing or exporting via air, ocean, rail, or truck cargo. However, these shipments will continue to be exempt from the proposed base inspection fees. Examples of these individuals or organizations would include but not be limited to: individuals importing or exporting personal pets that may or may not be protected species; hunters importing or exporting protected game species; and public museums, zoos, and scientific or educational institutions importing or exporting protected species or live specimens. These shipments require considerably more knowledge, time, and equipment than is required for a routine shipment. It should be noted that the Service does not consider these individuals or organizations to be exempt from paying for other services that provide benefits. Our regulations in part 13 already require these individuals or organizations to pay application fees for permits that authorize them to engage in activities not otherwise authorized for the general public. In our review of other agencies' user fees for import and export, we note that other agencies do not make a distinction between commercial and noncommercial individuals or organizations. Based upon these findings, we decided to charge premium fees but exempt these shipments from base inspection fees as long as the shipments are imported or exported through a designated port. These shipments will continue to be subject to overtime fees and all fees for import or export through a nondesignated port.

Individuals or organizations who import or export shipments of wildlife for noncommercial purposes at designated ports, using the mail, as passengers, or by personal vehicle, that contain species that are protected by Federal or international law, or live specimens, will be exempt from designated port base inspection fees and premium inspection fees. However, they will still be responsible for overtime fees for any inspections that take place outside normal working hours. We decided to provide this exemption under these circumstances because we do not consistently provide inspection services at mail facilities, passenger terminals, or for personal vehicles.

Our current regulations exempt certain captive-bred mammals from designated port user fees as part of an exemption from the import/export license requirements. We propose to reinstate the import/export license requirement for these types of shipments as previously indicated. Although most businesses have not taken advantage of the exemption as discussed earlier, any exempted shipments still require inspection and clearance by us. This exemption has also had the unintended consequence of creating a monetary incentive to falsely declare certain mammals and their products as captive-bred.

By policy, we currently exempt the export of sturgeon and paddlefish that are captive-bred in aquaculture facilities from user fees, including nondesignated port fees if the shipments are for immediate human or animal consumption. This exemption applies to caviar, meat, and other food items, but does not cover live fish. By policy, we also currently exempt the export of American bison, ostrich, and emu meat produced in ranching operations in the United States from user fees if the meat is intended for human consumption. All of these shipments still require inspection and clearance by us.

Our ability to effectively provide inspection and clearance services and the necessary support for these services depends on user fees. By exempting these types of shipments from user fees, the costs associated with inspection and clearance are borne either by the taxpayers through appropriated funds or by other importers and exporters. The services provided to these exempt businesses are specialized services that do not benefit the public as a whole and, as such, the costs should not be borne by the taxpayer. As discussed earlier, the majority of importers and exporters of wildlife are small businesses. We do not find it equitable that nonexempt businesses must pay more than their share of the costs in order for us to recover the costs not paid by exempt businesses. We, therefore, propose to remove the user fee exemption for businesses that import or export certain captive-bred mammals or their products and circuses. We also propose to remove the user fee exemption for businesses that export food items derived from aquacultured sturgeon and paddlefish, American bison meat, and ostrich and emu meat.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make the proposed rule easier to understand? Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Execsec@ios.doi.gov.*

Required Determinations

Executive Order 12866 (Regulatory Planning and Review)

Under the criteria in Executive Order 12866, OMB has determined that this proposed rule is not a significant regulatory action.

a. This proposed rule will not have an annual economic effect of $100 million

or negatively affect a part of the economy, productivity, jobs, the environment, or other units of the government. A cost benefit and economic analysis is not required.

This proposed rule will not have an annual economic effect of $100 million.

The proposed removal of two exemptions from our import/export license requirements for businesses that import or export certain captive-bred mammals or their products and circuses that import or export wildlife will not adversely affect those businesses.

For fiscal year 2005, our records indicate that 2,628 shipments of captive-bred chinchilla, fisher, fox, marten, mink, muskrat, and nutria were imported or exported by 351 businesses. However, 296 of these businesses already have import/export licenses because they also trade in species other than these captive-bred mammals. We are proposing that the remainder of these businesses must obtain an import/export license, at a cost of $100.00 per year. These proposed changes will result in an additional cost to these businesses of $5,500.00 as importers or exporters of these captive-bred mammals or their products (351 − 296 = 55 businesses × $100.00 = $5,500.00). We estimate that approximately 30 circuses will import or export animals during a given year. We are proposing that these circuses must obtain an import/export license. These proposed changes will result in an additional cost to these circuses of $3,000.00 as importers or exporters of circus animals.

The total cost to businesses and circuses based upon the proposed removal of two exemptions from our import/export license requirements will be approximately $8,500.00.

We propose that routine shipments be charged a base inspection fee based upon the type of port. Shipments containing protected species or live specimens would be charged a premium inspection fee in addition to the base inspection fee. If a shipment contains both protected species and live specimens, we propose to charge two premium inspection fees in addition to the base inspection fee. The proposed fee structure requires an $85 base inspection fee for inspections at designated ports and a $19 premium inspection fee.

The greatest increased costs contained in the proposed fee structure would apply to wildlife shipments imported or exported at nonstaffed, nondesignated ports. Assuming that every shipment we inspect occurs at one of these ports, the total net annual economic effect in the worst-case scenario would be approximately $20 million.

For inspections at these ports, our current regulations require an administrative fee of $55 plus all costs associated with the inspection and clearance including salary, travel, and per diem for the wildlife inspector conducting the inspection. The proposed fee structure requires a $133 base inspection fee for inspections at these ports. Assuming that every shipment at these ports contained species that are protected by Federal or international law and live specimens, these shipments would require an additional $38 in premium inspection fees, for a total of $171 per shipment.

The worst-case scenario for inspections at nonstaffed, nondesignated ports, as described above, and not including travel and per diem, would result in an additional $116 in inspection fees per shipment ($171 − $55) under the new fee structure. We estimate that we inspect approximately 170,000 shipments per year nation-wide. Assuming that all of these shipments were inspected at nonstaffed, nondesignated ports, the net annual economic effect would equal $19,720,000 under the new fee structure. While the proposed fee structure of $133 to use these ports does require the additional payment of travel and per diem expenses, it does not require the additional payment of the salary of the wildlife inspector conducting the inspection. In many cases, the base fee of $133 will be considerably less than the salary of the wildlife inspector conducting the inspection.

In reality, nearly one-half of our inspections are conducted at designated ports for shipments that do not contain species that are protected by Federal or international law or live specimens, so the net annual economic effect of the proposed fee structure is considerably less than $19,720,000. For commercial shipments at designated ports, our current regulations require an inspection fee of $55. The proposed fee structure requires an $85 base inspection fee for inspections at designated ports. These shipments would result in an additional $30 in inspection fees per shipment ($85 − $55) under the new fee structure. For fiscal year 2005, we inspected 83,203 shipments at designated ports that did not contain species that are protected by Federal or international law or live specimens. The net annual economic effect for inspections of these shipments would equal $2,496,090 under the new fee structure.

As described above, the proposed removal of two exemptions from our import/export license requirements for businesses that import or export certain captive-bred mammals or their products and circuses means that these entities must pay inspection fees authorized under their import/export license.

For fiscal year 2005, our records indicate that 2,628 shipments of certain captive-bred mammals or their products were imported or exported by 351 businesses. These proposed changes will result in an additional cost to these businesses of $223,380.00 when they import or export shipments of certain captive bred mammals or their products at designated ports (2,628 shipments × $85 base inspection fee at designated ports).

Our records indicate that, at most, there would be 75 shipments of circus animals imported or exported during a given year by approximately 30 circuses. Circuses will likely be assessed two premium inspection fees per shipment since most of their shipments will contain live specimens that are protected by Federal or international law. Under the worst-case scenario, these proposed changes will result in an additional cost to these circuses of $9,225.00, when they import or export circus animals at designated ports (75 shipments × $85 base inspection fee at designated ports + 75 shipments × $38 premium inspection fee).

For fiscal year 2005, our records indicate that 7,800 shipments that contained species that are protected by Federal or international law or live specimens were imported or exported for noncommercial purposes at designated ports via air, ocean, rail, or truck cargo. We are proposing that these persons must pay premium inspection fees for these shipments. In many cases these shipments will contain species that are protected by Federal or international law and live specimens. Under the worst-case scenario, these proposed changes will result in an additional cost to these persons of $296,400.00, when they import or export these shipments at designated ports (7,800 shipments × $38 premium inspection fee).

For fiscal year 2005, our records indicate that 145 shipments of American bison, ostrich, emu, or sturgeon and paddlefish products were exported. These proposed changes will result in an additional cost to these businesses of $12,325.00 when they export shipments of American bison, ostrich, or emu meat at designated ports (145 shipments × $85 base inspection fee at designated ports).

The total cost to businesses, circuses, and persons importing or exporting species that are protected by Federal or international law or live specimens for

noncommercial purposes, based upon the proposed removal of license fee exemptions will be approximately $541,330.00.

Considering that nearly one-half of the shipments that we inspect account for an annual economic effect of just under $2.5 million, it is safe to assume that all of the other types of shipments that we inspect at all of our other ports, when combined with this amount, will total far less than $100 million. The proposed removal of import/export license exemptions and inspection fee exemptions accounts for an additional $549,830.00. To summarize, this proposed rule will have an annual economic effect of far less than $100 million.

Though it is apparent that this proposed rule will not have an annual economic effect of $100 million, we recognize that these fee increases will have a negative effect on small entities. Since essentially all of the businesses that engage in commerce by importing or exporting wildlife would be considered small businesses, and considering that the wildlife trade compliance program is to be ''self-sustaining to the extent possible,'' we have no option but to raise inspection fees to cover the increasing costs associated with the wildlife trade compliance program. It would not be appropriate to pass these increased costs on to the general public, who are not the primary beneficiaries of these services.

b. This proposed rule will not create inconsistencies with other agencies' actions.

We are the lead Federal agency for implementing regulations that govern and monitor the importation and exportation of wildlife and carrying out the United States' obligations under CITES. Therefore, this proposed rule has no effect on other agencies' responsibilities and will not create inconsistencies with other agencies' actions.

c. This proposed rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

This proposed rule will materially affect user fees, however, because the wildlife trade compliance program is to be ''self-sustaining to the extent possible,'' we have no option but to raise inspection fees to cover the increasing costs associated with the wildlife trade compliance program. If we do not increase user fees, funds will not be available to continue to provide these services at a level sufficient to meet customer demand.

d. This proposed rule will not raise novel legal or policy issues.

This proposed rule will not raise novel legal or policy issues because we are required to charge fees for inspections to meet the mandate in 31 U.S.C. 9701, which states that services provided by Federal agencies are to be ''self-sustaining to the extent possible,'' and to comply with OMB Circular No. A–25, Federal user fee policy, which requires Federal agencies to recoup the costs of ''special services'' that provide benefits to identifiable recipients. The inspection and clearance of wildlife imports and exports are special services provided to importers and exporters who are authorized to engage in activities not otherwise authorized for the general public. Our ability to effectively provide these services depends on inspection fees. Since the wildlife trade compliance program is to be ''self-sustaining to the extent possible,'' we propose a user fee structure that will provide 100 percent cost recovery of the wildlife trade compliance program by the end of the 5-year period.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

This proposed rule will not have a significant economic effect on a substantial number of small businesses as defined under the Regulatory Flexibility Act. An initial Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

During the development of the user fee template, we considered the impact that increased user fees would have on small businesses. Essentially all of the businesses that engage in commerce by importing or exporting wildlife or wildlife products would be considered small businesses according to the Small Business Administration (SBA). Examples of some of these businesses can be placed in the following SBA categories: ''Zoos and Botanical Gardens,'' with an SBA size standard of $6.0 million in average annual receipts; ''Merchant wholesalers, nondurable goods,'' with an SBA size standard of 100 employees; ''Leather and allied product manufacturers,'' with an SBA size standard of 500 employees and; ''Clothing and Clothing Accessories Stores,'' with an SBA size standard ranging from $6.0 million to $7.5 million in average annual receipts.

This proposed rule will not have a significant economic effect on these businesses. In most cases, the increased user fees will represent a small fraction of the value of the affected wildlife shipment. In addition, the small entities directly affected by this proposed rule are not likely to bear the full burden of the proposed user fee increases because some or most of the proposed cost increases will be passed on to the purchasers of the wildlife.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

This proposed rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

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

As described above, nearly one-half of the shipments that we inspect account for an annual economic effect of just under $2.5 million, and it is safe to assume that all of the other types of shipments that we inspect at all of our other ports, when combined with this amount, will total far less than $100 million. The proposed removal of import/export license exemptions and inspection fee exemptions accounts for an additional $549,915.00. To summarize, this proposed rule will have an annual economic effect of far less than $100 million.

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

This proposed rule will increase costs for individual industries and potentially consumers, however, because the wildlife trade compliance program is to be ''self-sustaining to the extent possible,'' we have no option but to raise inspection fees to cover the increasing costs associated with the wildlife trade compliance program. If we do not increase user fees, funds will not be available to continue to provide these services at a level sufficient to meet customer demand.

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

This proposed rule will not have significant adverse effects on the ability of U.S.-based enterprises to compete with foreign-based enterprises because foreign-based enterprises that are subject to U.S. jurisdiction must comply with the same regulatory requirements as U.S.-based enterprises who import or export wildlife. In addition, this rule proposes to remove the exemption from an import/export license requirements and payment of user fees for shipments of certain captive-bred mammals or their products. Due to shipping and other business practices, foreign-sourced mammals or their products imported into the United States are more likely to be declared as captive-

bred and appropriate for the current exemption than exports of U.S.-sourced mammals or their products. The removal of the exemption will result in equal treatment of foreign-sourced and U.S.-sourced mammals or their products.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

Under the Unfunded Mandates Reform Act:

a. This proposed rule will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required.

We are the lead Federal agency for implementing regulations that govern and monitor the importation and exportation of wildlife and carrying out the United States' obligations under CITES. Therefore, this proposed rule has no effect on small government's responsibilities.

b. This proposed rule will not produce a Federal requirement that may result in the combined expenditure by State, local, or tribal governments of $100 million or greater in any year, so it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

This rule will not result in any combined expenditure by State, local, or tribal governments.

Executive Order 12630 (Takings)

Under Executive Order 12630, this proposed rule does not have significant takings implications. A takings implication evaluation is not required. Under Executive Order 12630, this proposed rule does not affect any constitutionally protected property rights. This proposed rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Executive Order 13132 (Federalism)

Under Executive Order 13132, this proposed rule does not have significant Federalism effects. A Federalism evaluation is not required. This proposed rule will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12988 (Civil Justice Reform)

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule does not overly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this proposed rule has been reviewed to eliminate errors and ensure clarity, has been written to minimize disagreements, provides a clear legal standard for affected actions, and specifies in clear language the effect on existing Federal law or regulation.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain any new information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* OMB has approved the information collection requirements contained in this subpart I and assigned OMB Control Number 1018–0092, which expires on September 30, 2007. The Service may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This proposed rule has been analyzed under the criteria of the National Environmental Policy Act and 318 DM 2.2 (g) and 6.3 (D). This proposed rule does not amount to a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/evaluation is not required. This proposed rule is categorically excluded from further National Environmental Policy Act requirements, under part 516 of the Departmental Manual, Chapter 2, Appendix 1.10. This categorical exclusion addresses policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature and whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis under NEPA.

Executive Order 13175 (Tribal Consultation) and 512 DM 2 (Government-to-Government Relationship With Tribes)

Under the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175 and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no adverse effects. Individual tribal members must meet the same regulatory requirements as other individuals who import or export wildlife.

Executive Order 13211 (Energy Supply, Distribution, or Use)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule proposes to clarify the import/export license and fee requirements, adjust the user fee schedule, and update license and user fee exemptions. This proposed rule is not a significant regulatory action under Executive Order 12866, and it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

For the reasons described above, we propose to amend part 14, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below.

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. The authority citation for part 14 continues to read as follows:

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

2. Revise subpart I to read as follows:

Subpart I—Import/Export Licenses and User Fees

Sec.

14.91 When do I need an import/export license?
14.92 What are the exemptions to the import/export license requirement?
14.93 How do I apply for an import/export license?
14.94 What fees apply to me?

Subpart I—Import/Export Licenses and User Fees

§ 14.91 When do I need an import/export license?

(a) The Endangered Species Act (16 U.S.C. 1538(d)(1)) makes it unlawful for any person to engage in business as an importer or exporter of certain fish or wildlife without first having obtained permission from the Secretary. For the purposes of this subchapter, engage in business means to import or export wildlife for commercial purposes.

(b) Except as provided in § 14.92, if you engage in the business of importing or exporting wildlife for commercial purposes (see § 14.4), you must obtain an import/export license prior to importing or exporting your wildlife shipment.

(c) The following table includes some examples of when an import/export license is required:

If I import into the United States or export from the United States	* * * do I need an import/export license?
(1) Wildlife in the form of products such as garments, bags, shoes, boots, jewelry, rugs, trophies, or curios for commercial purposes.	Yes.
(2) Wildlife in the form of hides, furs, or skins for commercial purposes	Yes.
(3) Wildlife in the form of food for commercial purposes	Yes.
(4) As an animal dealer, animal broker, pet dealer, or pet supplier	Yes.
(5) As an individual pet owner for personal use	No.
(6) As a collector or hobbyist for personal use	No.
(7) As a laboratory researcher or biomedical supplier for commercial purposes	Yes.
(8) As a customs broker or freight forwarder engaged in business as a dispatcher handler, consolidator, or transporter of wildlife or filing documents with the Service on behalf of others.	No.
(9) As a common carrier when engaged in business as a transporter of wildlife	No.
(10) As a taxidermist, outfitter, or guide importing or exporting my own hunting trophies for commercial purposes	Yes.
(11) As a taxidermist, outfitter, or guide transporting or shipping hunting trophies for clients or customers	No.
(12) As a U.S. taxidermist importing wildlife from or exporting wildlife to foreign owners who are requesting my services.	Yes.
(13) As a foreign owner of wildlife exporting my personal hunting trophies to my home	No.
(14) As a circus for exhibition or resale purposes	Yes.
(15) As a Federal, State, municipal, or tribal agency	No.
(16) As a public museum, or public scientific or educational institution for noncommercial research or educational purposes.	No.

§ 14.92 What are the exemptions to the import/export license requirement?

(a) *Certain wildlife.* Any person may engage in business as an importer or exporter of the following types of wildlife without an import/export license:

(1) Shellfish and nonliving fish products that do not require a permit under parts 16, 17, or 23 of this subchapter, and are imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(2) Live farm-raised fish and farm-raised fish eggs of species that do not require a permit under parts 16, 17, or 23 of this subchapter, that meet the definition of bred-in-captivity as stated in § 17.3 of this subchapter that are for export only; and

(3) Live aquatic invertebrates of the Class Pelecypoda, commonly known as oysters, clams, mussels, and scallops, and their eggs, larvae, or juvenile forms, that do not require a permit under parts 16, 17, or 23 of this subchapter, and are exported only for the purposes of propagation or research related to propagation; and

(4) Pearls that do not require a permit under parts 16, 17, or 23 of this subchapter.

(b) *Certain persons.* (1) The following persons may import or export wildlife without an import/export license provided that these persons keep records that will fully and correctly describe each importation or exportation of wildlife made by them and the subsequent disposition made by them with respect to the wildlife.

(i) Public museums, or other public, scientific or educational institutions, importing or exporting wildlife for noncommercial research or educational purposes; and

(ii) Federal, State, tribal, or municipal agencies.

(2) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times will, upon notice, be given access to these persons' places of business, an opportunity to examine their inventory of imported wildlife or the wildlife to be exported, the records described above, and an opportunity to copy those records.

§ 14.93 How do I apply for an import/export license?

(a) *Application form.* You must submit a completed FWS Form 3–200–3, including the certification found on the form and in § 13.12(a) of this subchapter, to the appropriate regional Special Agent in Charge under the provisions of this subpart and part 13 of this subchapter.

(b) *Import/export license conditions.* In addition to the general permit conditions in part 13 of this subchapter, you must comply with the following conditions:

(1) You must comply with all requirements of this part, all other applicable parts of this subchapter, and any specific conditions or authorizations described on the face of, or on an annex to, the import/export license;

(2) You must pay all applicable license and inspection fees as required in § 14.94;

(3) You are responsible for providing current contact information to us, including a mailing address where you will accept all official notices sent by the Service;

(4) You must keep, in a U.S. location, the following records that completely and correctly describe each import or export of wildlife that you made under the import/export license and if applicable, any subsequent disposition that you made with the wildlife, for a period of 5 years:

(i) A general description of the wildlife, such as ''live,'' ''raw hides,'' ''fur garments,'' ''leather goods,'' ''footwear,'' or ''jewelry'';

(ii) The quantity of the wildlife, in numbers, weight, or other appropriate measure;

(iii) The common and scientific names of the wildlife;

(iv) The country of origin of the wildlife, if known, as defined in § 10.12 of this subchapter;

(v) The date and place the wildlife was imported or exported;

(vi) The date of the subsequent disposition, if applicable, of the wildlife and the manner of the subsequent disposition, whether by sale, barter, consignment, loan, delivery, destruction, or other means;

(vii) The name, address, telephone, and e-mail address if known, of the

person or business who received the wildlife;

(viii) Copies of all permits required by the laws and regulations of the United States; and

(ix) Copies of all permits required by the laws of any country of export, re-export, or origin of the wildlife;

(5) You must, upon notice, provide authorized Service officers with access to your place(s) of business at all reasonable times and give us an opportunity to examine your inventory of imported wildlife or the wildlife to be exported, the records required to be kept by paragraph (b)(4) of this section, and an opportunity to copy these records subject to applicable limitations of the law;

(6) You must submit a report containing the information required to be kept in paragraph (b)(4) of this section within 30 days of receipt of a written request from us; and

(7) An import/export license gives you permission to engage in business as an importer or exporter of wildlife only in general terms. An import/export license is in addition to, and does not supersede, any other license, permit, or requirement established by Federal, State, or tribal law for the import or export of wildlife.

(c) *Duration of import/export license.* Any import/export license issued under this section expires on the date designated on the face of the import/export license. In no case will the import/export license be valid for more than 1 year from the date of issuance.

(d) *Issuance, denial, suspension, revocation, or renewal of import/export license.* We may deny, suspend, revoke, restrict, or deny renewal of an import/export license to any person named as the holder, or a principal officer or agent of the holder, under any of the criteria described in part 13 of this subchapter or under the following criteria:

(1) Fees, penalties, or costs are owed to us;

(2) You repeatedly fail to notify our Service officers at the appropriate port at least 48 hours prior to the estimated time of arrival of a live or perishable wildlife shipment under § 14.54 (a) or at least 48 hours prior to the estimated time of exportation of any wildlife under § 14.54(f);

(3) You repeatedly import or export certain types of wildlife without meeting the requirements of this part or other applicable parts of this subchapter.

§ 14.94 What fees apply to me?

(a) *Import/export license application fees.* You must pay the application and amendment fees, as defined in § 13.11(d)(4), for any required import/export license issued under § 14.93 and part 13 of this subchapter.

(b) *Designated port exception permit application fees.* You must pay the application and amendment fees, as defined in § 13.11(d)(4), for any required designated port exception permit issued under subpart C of this part.

(c) *Designated port base inspection fees.* Except as provided in paragraph (k) of this section, an import/export license holder must pay a base inspection fee, as defined in paragraph (h)(1) of this section, for each wildlife shipment imported or exported at a designated port or a port acting as a designated port. You can find a list of designated ports in § 14.12 and the criteria that allow certain ports to act as designated ports in §§ 14.16–14.19, § 14.22, and § 14.24 of this part.

(d) *Staffed nondesignated port base inspection fees.* You must pay a nondesignated port base inspection fee, as defined in paragraph (h)(2) of this section, for each wildlife shipment imported or exported at a staffed nondesignated port using a designated port exception permit issued under subpart C of this part. This fee is in place of, not in addition to, the designated port base fee.

(e) *Nonstaffed, nondesignated port base inspection fees.* You must pay a nondesignated port base inspection fee, as defined in paragraph (h)(3) of this section, for each wildlife shipment imported or exported at a nonstaffed, nondesignated port using a designated port exception permit issued under subpart C of this part. You must also pay all travel, transportation, and per diem costs associated with inspection of the shipment. These fees are in place of, not in addition to, the designated port base fee.

(f) *Premium inspection fees.* You must pay a premium inspection fee in addition to any base inspection fees required in paragraphs (c), (d), and (e) of this section, as defined in paragraph (h)(4) of this section, for the following types of shipments:

(1) Except as provided in paragraph (k) of this section, any shipment containing live or protected species, as defined in paragraph (h)(4) of this section, imported or exported by an import/export license holder at a designated port or a port acting as a designated port. You can find a list of designated ports in § 14.12 and the criteria that allow certain ports to act as designated ports in §§ 14.16–14.19, § 14.22, and § 14.24 of this part;

(2) Any shipment containing live or protected species, as defined in § 14.94(h)(4), imported or exported via air, ocean, rail, or truck cargo, by persons not requiring an import/export license under § 14.91, at a designated port or a port acting as a designated port. You can find a list of designated ports in § 14.12 and the criteria that allow certain ports to act as designated ports in §§ 14.16–14.19, § 14.22, and § 14.24 of this part;

(3) Any shipment containing live or protected species, as defined in paragraph (h)(4) of this section, imported or exported at a nondesignated port using a designated port exception permit issued under subpart C of this part.

(4) You must pay two premium inspection fees in addition to any base inspection fees required in paragraphs (c), (d), and (e) of this section, as defined in paragraph (h)(4) of this section, if your wildlife shipment contains live and protected species.

(g) *Overtime fees.* You must pay fees for any inspections that begin before normal working hours, that extend beyond normal working hours, or are on a Federal holiday, Saturday, or Sunday.

(1) Overtime fees are in addition to any base inspection fees or premium inspection fees required for each shipment and will be charged regardless of whether or not you have an import/export license.

(2) Our ability to perform inspections during overtime hours will depend upon the availability of Service personnel. If we cannot perform an inspection during normal working hours, we may give you the option of requesting an overtime inspection.

(3) The overtime fee is calculated using a 2-hour minimum plus any actual time in excess of the minimum and incorporates the actual time to conduct an inspection and the travel time to and from the inspection location.

(4) The Service will charge any overtime, including travel time, in excess of the minimum in quarter-hour increments of the hourly rate. The Service will round up an inspection time of 10 minutes or more beyond a quarter-hour increment to the next quarter-hour and will disregard any time over a quarter-hour increment that is less than 10 minutes.

(5) The Service will charge only one overtime fee when multiple shipments are consigned to or are to be exported by the same importer or exporter and are all inspected at the same time at one location. The overtime fee will consist of one 2-hour minimum or the actual time for inspection of all the applicable shipments, whichever is greater. All applicable base and premium fees will apply to each shipment.

(6) We will charge 1 hour of time at 1½ times the hourly labor rate for inspections beginning less than 1 hour before normal working hours.

(7) We will charge a minimum of 2 hours of time at an hourly rate of 1½ times the average hourly labor rate for inspections outside normal working hours except for inspections performed on a Federal holiday.

(8) We will charge a minimum of 2 hours of time at an hourly rate of 2 times the average hourly labor rate for inspections performed on a Federal holiday.

(h) *Fee schedule.*

Inspection fee schedule	Fee cost per year				
	2008	2009	2010	2011	2012
(1) Designated port base inspection fee (see § 14.94(c)).	$85	$87	$89	$91	$93
(2) Staffed nondesignated port base inspection fee (§ 14.94(d)).	$133	$136	$139	$142	$145
(3) Nonstaffed nondesignated port base inspection fee (§ 14.94(e)).	$133	$136	$139	$142	$145
(4) Premium inspection fee at any port (see § 14.94(f)):					
(i) *Protected species.* Any species that requires a permit under 50 CFR parts 15, 16, 17, 18, 21, 22, or 23;	$19	$37	$56	$74	$93
(ii) *Live species.* Any live wildlife, including live viable eggs and live pupae.	$19	$37	$56	$74	$93
(5) Overtime inspection fee (see § 14.94(g)):					
(i) Inspections beginning less than 1 hour before normal work hours.	$48	$49	$51	$52	$53
(ii) Inspections after normal work hours, including Saturday and Sunday.	$96 min. + $48/hr	$98 min. + $49/hr	$101 min.+ $51/hr.	$103 min.+ $52/hr.	$105 min. + $53/hr.
(iii) Inspections on Federal holidays	$128 min. + $64/hr.	$131 min. + $65/hr.	$133 min. + $67/hr.	$136 min.+ $68/hr.	$139 min. + $70/hr.

(i) The Service will not refund any fee or any portion of any license or inspection fee or excuse payment of any fee because importation, exportation, or clearance of a wildlife shipment is refused for any reason.

(j) All base inspection fees, premium inspection fees, and overtime fees will apply regardless of whether or not a physical inspection of your wildlife shipment is performed, and no fees will be prorated except as provided in paragraph (g)(5) of this section.

(k) *Exemptions to inspection fees.*

(l) *Certain North American origin wild mammal furs or skins.* Wildlife shipments that meet all of the following criteria are exempt from the designated port base inspection fee (These shipments are not exempt from the designated port overtime fees or the import/export license application fee.):

(i) The wildlife is a raw fur, raw, salted, or crusted hide or skin, or a separate fur or skin part, lawfully taken from the wild in the United States, Canada, or Mexico that does not require permits under parts 17, 18, or 23 of this subchapter; and

(ii) You, as the importer or exporter, or a member of your immediate family, such as your spouse, parents, siblings, and children, took the wildlife from the wild and are shipping the wildlife between the United States and Canada or Mexico; and

(iii) You have not previously bought or sold the wildlife described in paragraph (k)(1)(i) of this section, and the shipment does not exceed 100 raw furs, raw, salted, or crusted hides or skins, or fur or skin parts; and

(iv) You certify on Form 3–177, Declaration for Importation or Exportation of Fish or Wildlife, that your shipment meets all the criteria in this section.

(2) You do not have to pay base inspection fees, premium inspection fees, or overtime fees if you are importing or exporting wildlife that is exempt from import/export license requirements as defined in § 14.92(a) or you are importing or exporting wildlife as a government agency as defined in § 14.92(b)(1)(ii).

(3) You do not have to pay base inspection fees, premium inspection fees, or overtime fees if you are importing or exporting wildlife that meets the criteria for ''domesticated animals'' as defined in § 14.4 of this part.

Dated: December 14, 2007.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

Editorial Note: This document was received at the Office of the Federal Register on February 19, 2008.

[FR Doc. E8–3330 Filed 2–22–08; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 73, No. 37
Monday, February 25, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 20, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (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 agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Bovine Spongiform Encephalopathy; Importation of Animals and Animal Products.

OMB Control Number: 0579–0234.

Summary of Collection: Under the Animal Health Protection Act (Title 7, U.S.C. 8301, *et seq.*) the Secretary is authorized to promulgate regulations and take measures to prevent the introduction into the United States and the interstate dissemination within the United States of communicable diseases of livestock and poultry. The regulations in 9 CFR parts, 93, 94, 95 and 96 govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE). The Animal and Plant Health Inspection Service (APHIS) is charged with regulating the importation of animals and animal products to prevent the introduction of various animal diseases, including BSE.

Need and Use of the Information: The regulations allow, under specified conditions, the importation of certain live ruminants and ruminant products and byproducts. APHIS uses eartags, permits for animals destined for immediate slaughter or for movement to designated feedlots; certificate of processing from the government of the exporting region regarding the source of all raw material of animal origin in the imported products; placing of seals on certain conveyances, the identification of individuals authorized to break the seals, and agreements entered into by slaughtering establishments or feedlots with APHIS; and an APHIS Veterinary Services' veterinary import permit.

Description of Respondents: Business or other for-profit.

Number of Respondents: 9,800.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 229,140.

Animal and Plant Health Inspection Service

Title: Karnal Bunt; Revision of Regulations for Importing Wheat.

OMB Control Number: 0579–0240.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS), domestic Karnal bunt regulations are contained in Subpart-Karnal Bunt (7 CFR 301.89–1 through 301.89–16). Karnal bunt is a fungal disease of wheat. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed.

Need and Use of the Information: In order for APHIS to verify that the articles are being imported in compliance with the regulations, the articles would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin. The certificate must include a declaration stating that the regulated articles originated in areas where Karnal bunt is not known to occur, as attested to either by survey resulting or by testing for bunted karnals or spores.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 500.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 600.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–3495 Filed 2–22–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–LS–08–0012]

Request for Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice

announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved collections for 7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards), which includes Form LS–313, ''Application for Service,'' Form LS–315, and ''Application for Commitment Grading or Certification Service''.

DATES: Comments on this notice must be received on or before April 25, 2008.

ADDRESSES: Interested persons are invited to submit comments. Comments must be posted online at *www.regulations.gov* or sent to Larry R. Meadows, Chief; USDA, AMS, LS, MGC; 13952 Denver West Parkway Building 53, Suite 350, Lakewood, Colorado 80401. Comments will be available for public inspection at the above address during regular business hours or via the Internet at *www.regulations.gov.* All comments should reference the docket number (Docket No. AMS-LS–08–0012), the date, and the page number of this issue of the **Federal Register**. All responses to this notice will be summarized and included in the request for OMB approval.

SUPPLEMENTARY INFORMATION

Title: 7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards).

OMB Number: 0581–0124.

Expiration Date of Approval: August 31, 2008.

Type of Request: Revision of a currently approved collection of information.

Abstract: The application for meat grading and certification services requests the Department of Agriculture (USDA) employees to perform such services in the requesting establishment. The information contained on the applications constitutes an agreement between USDA and the requesting establishment.

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide voluntary Federal meat grading and certification services that facilitate the marketing of meat and meat products. The Meat Grading and Certification (MGC) Branch provides these services pursuant to 7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards).

Due to the voluntary nature of grading and certification services, 7 CFR Part 54 contains provisions for the collection of fees from users of MGC Branch services that equal the cost of providing the requested services to the closest extent possible. Applicants (individual or businesses with financial interest in the product) may request MGC Branch services through either submission of Form LS–313 or Form LS–315.

Congress did not specifically authorize this collection of information, but completion and submission of Form LS–313 or Form LS–315 serves as an agreement by the requester to pay for services provided.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .21 hours per response.

Respondents: Livestock and meat industry or other for-profit businesses.

Estimated Number of Respondents: 951 respondents.

Estimated Number of Responses: 6,666 responses.

Estimated Number of Responses per Respondent: 7 responses.

Estimated Total Annual Burden on Respondents: 1,391 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification Branch, telephone (720) 497–2550, facsimile (720) 497–0569, or e-mail at *Larry.Meadows@usda.gov.*

Dated: February 19, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–3496 Filed 2–22–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta-Trinity National Forest, California; Algoma Vegetation and Road Management Project

AGENCY: Forest Service, USDA.

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

SUMMARY: The Shasta-Trinity National Forest proposes to thin stands and remove accumulations of down wood (fuels) on approximately 5,300 acres of National Forest System lands. Trees in the project area would be thinned by removing a portion of the trees from overcrowded forest stands. Trees to be removed will generally be smaller in size than trees that will be retained. In some stands, trees to be removed would be those infected with disease or insects. Young tree seedings would be planted in any openings created in these areas. A roads analysis will be prepared to identify management opportunities (road closures and improvements) for the road system within the proposed project area. The project area is in T40N, R1W & R1E, MDM and T39N, R1W & R1E MDM, about 10 miles east of the town of McCloud, California. The project area is zoned by the Forest Land and Resource Management Plan as Late-Successional Reserve. About 15 percent of the area is zoned as Riparian Reserve (wetlands, areas adjacent to streams and unstable areas).

DATES: Comments concerning the scope of the analysis should be received no later than 30 days after the publication of this notice in the **Federal Register**. The draft environmental impact statement is expected in May 2008 and the final environmental impact statement is expected in September 2008.

ADDRESSES: Send written comments to District Ranger Michael Hupp, Shasta-McCloud Management Unit, 204 W. Alma St., Mt. Shasta, California 96067. Electronic comments can be sent via e-mail to: *comments-pacificsouthwest-shasta-trinity-mtshasta-mccloud@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Ricardo Velarde, McCloud Ranger Station, P.O. Box 1620, McCloud, California 96057, telephone (530) 964–3770 or via e-mail at *rvelarde@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the proposed action is to protect and enhance conditions of late-successional forest ecosystems, which serve as habitat for late-successional and old-growth related species, including the northern spotted owl.

Fire exclusion over the last 100 years has led to dense forest conditions and excessive ground fuels. The overcrowded conditions have had a negative impact on tree vigor and forest health. Increased competition for available resources, such as water, nutrients and sunlight has made trees

more susceptible to drought, disease and insect infestation. A dense understory of trees coupled with an accumulation of ground fuels increases the chances of a wildfire reaching the forest canopy and spreading. These conditions limit and delay the development of early-successional and mid-successional stands towards late-successional forest conditions and place existing late-successional forest habitat at risk.

There is a need to reduce tree density in older tree plantations and natural forest stands where overcrowded conditions exist. Thinning will reduce competition and make additional resources available to remaining trees, resulting in improved tree vigor and greater resistance to drought, disease and insects. Furthermore, the use of variable thinning treatments to promote structural and age variability within stands will accelerate their development towards late-successional forest conditions and, consequently, enhance habitat in the project area.

There is a need to break the current cycle of re-infection in areas heavily infected by black stain root disease. Sanitizing (removing) dead and dying trees will remove the source of infection from affected areas. Replanting with a mix of species will enhance diversity and aid in breaking the disease cycle within the project area protecting both developing and existing late-successional forest habitat.

There is a need to reduce accumulations of ground fuels to levels where flames are not likely to reach the canopy layer in case of wildfire. Fuel treatments will reduce fuel loads and reduce the chances of a wildfire destroying late-successional forest habitat in the project area.

Proposed Action

The proposed action is to thin on approximately 5,300 acres. In all thinning treatments, trees will be thinned to a density that is appropriate for the species, age and site. The smaller trees will generally be removed from the stand leaving the healthier dominant and co-dominant trees at an appropriate stocking level.

(a) On approximately 1,050 acres of 25–40 year old ponderosa pine plantations, trees will be thinned to a variable spacing, generally by removing the smaller trees.

(b) On approximately 2,900 acres of 50–85 year old mixed conifer and ponderosa pine stands, trees will be thinned from below to a density that is appropriate for the species, age and site. The smaller trees will generally be removed from the stand leaving the healthier dominant and co-dominant trees at an appropriate stocking level. Interspersed among some of the treated areas will be unthinned patches of trees and areas of black oak release, intended to provide structural diversity and variability on the landscape. Up to 15% of the resultant area would be left in unthinned patches.

(c) On approximately 1,050 acres of 75 year old ponderosa pine and mixed conifer stands with areas of heavy mortality from root disease, trees will be thinned as described in ''b'' above. In addition, there will be sanitation treatments in those stands that are heavily infected with root disease, in which dead, dying and infected trees will be removed from the site to break the cycle of re-infection. Resulting understocked areas will be replanted with an appropriate mix of species to increase diversity.

(d) On approximately 300 acres of 50–75 year old ponderosa pine and mixed conifer stands, trees will be thinned using an uneven-aged, single-tree-selection method. The objective is to create stands composed of trees in a wide range of diameter classes to promote greater structural and age variability.

On all proposed treatments, excess trees will be removed as commercial wood products wherever possible. Small-diameter trees will be removed as wood chips while larger trees will be removed as saw logs. All fresh conifer stumps greater than 14 inches will be treated with borax to prevent the spread of annosus root disease. Whole tree removal will be used wherever possible to minimize the accumulation of additional ground fuels. Excess ground fuels will be treated by mastication, removal and utilization, or piling and burning. After harvest prescribed fire may be used in units that are deemed suitable. Treatment will be deferred on approximately 4,100 acres within the project area. These areas are experiencing northern spotted owl nesting/roosting activity or currently have suitable nesting stand structure and composition characteristics.

Hardwoods, particularly black oaks, will be enhanced in select areas. Encroaching conifers will be thinned away from hardwoods that are healthy, well established and likely to benefit from treatment.

Riparian Reserves will be treated in limited areas to improve, maintain or protect late-successional forest habitat conditions. Project related actions within Riparian Reserves will meet the objectives of the Aquatic Conservation Strategy in the Shasta-Trinity National Forest Land and Resource Management Plan.

To meet management objectives, this project may include the construction of approximately 2 miles of temporary short length roads, the reconstruction of approximately 21 miles of road and the closure or decommissioning of approximately 25 miles of road. Decisions involving roads will be based on a roads analysis for the project area. An inter-disciplinary team will evaluate current road conditions and weigh the risks and benefits of any changes to the existing road system.

Lead and Cooperating Agencies

Lead Agency: USDA, Forest Service.

Responsible Official

J. Sharon Heywood, Forest Supervisor, Shasta-Trinity National Forest.

Nature of Decision To be Made

The Forest Supervisor will decide whether to implement the proposed action, take an alternative action that meets the purpose and need or take no action.

Scoping Process

The project is included in the Shasta-Trinity National Forest's quarterly schedule of proposed actions (SOPA). Information on the proposed action will also be posted on the forest Web site, *http://www.fs.fed.us/r5/shastatrinity/projects* and advertised in both the Redding Record Searchlight and the Mount Shasta Herald. This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Comments submitted during this scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The scoping process includes:

(a) Identifying potential issues.

(b) Identifying issues to be analyzed in depth.

(c) Eliminating non-significant issues or those previously covered by a relevant previous environmental analysis.

(d) Exploring additional alternatives.

(e) Identifying potential environmental effects of the proposed actions and alternatives.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from

the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. (*Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978)*). Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be dismissed by the courts. *(City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986) and Wisconsin Hereitages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period. Timely submittal of comments and objections to the Forest Service ensures they can be meaningfully considered and responded to in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement.

In addressing these points, reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal, and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: February 14, 2008.

J. Sharon Heywood,

Forest Supervisor, Shasta-Trinity National Forest.

[FR Doc. 08–800 Filed 2–22–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Shipper's Export Declaration (SED)/Automated Export System (AES) Program.

OMB Control Number: 0607–0152.

Form Number(s): 7525-V, AES.

Type of Request: Revision of a currently approved collection.

Burden Hours: 817,941.

Number of Respondents: 239,094.

Average Hours per Response: 7525-V—11 minutes; AES—3 minutes.

Needs and Uses: The current clearance under Office of Management and Budget (OMB) Number 0607–0152 covers the paper SED, Commerce Form 7525–V and its electronic equivalent, the AES and related documents (e.g., Letter of Intent, AES*Direct* Registration and Certification Quiz).

The Census Bureau will be using the paper SED for a limited period of time during 2008. This is due to the expected implementation of mandatory electronic filing of all export information via the AES. This requirement is mandated through Public Law 107–228, of the Foreign Relations Authorization Act of 2003.

This law authorizes the Secretary of Commerce with the concurrences of the Secretary of State and the Secretary of Homeland Security to require all persons who file export information according to Title 13, United States Code (U.S.C.), Chapter 9, to file such information through the AES. Since 2005, the Census Bureau and the U.S. Customs and Border Protection (CBP) have implemented the following enhancements to the AES: (1) Edits for rough diamond shipments for the Kimberly Process; (2) E-mail messaging; (3) Created the Validated End-User license code; (4) Automated carrier code updates; (5) Developed background Standard Carrier Alpha Codes (SCAC) update process from National Motor Freight Traffic Association file; (6) Developed SCAC maintenance log list; (7) Developed Consignee screens; (8) Allowed Option 4 vessel shipments to proscribed countries; (9) Developed method of transportation maintenance screens; and (10) Developed edit value type screens. The revisions should not affect the average three-minute response time for the completion of the AES record. There will be no changes to the paper SED; therefore, there is no expected change to the existing 11-minute response time to complete this form.

The Census Bureau will allow the trade community to continue using the paper SED until the actual implementation of the mandatory electronic filing requirement occurs. Implementation of the mandatory electronic filing requirement is expected to take place in the second quarter of 2008. Currently, the Census Bureau is involved in the rulemaking process that will notify the trade community of the mandatory requirement for electronic filing.

The SED form and its electronic equivalent, the AES record, provide the means for collecting data on U.S. exports. The official export statistics collected from these tools provide the basic component for the compilation of the U.S. position on merchandise trade. These data are an essential component of the monthly totals provided in the U.S. International Trade in Goods and Services Press Release, a principal economic indicator and a primary component of the Gross Domestic Product (GDP).

The data collected from the SED and the AES records are also used for export control purposes under Title 50, U.S.C., Export Administration Act, to detect and prevent the export of certain items by unauthorized parties or to unauthorized destinations or end users.

The information collected on the paper SED and the AES record shows what is being exported (description and commodity classification number), how much is exported (quantity, shipping weight, and value), how it is being exported (mode of transport, exporting carrier, and whether containerized), from where (state of origin and port of export), to where (port of unloading and country of ultimate destination), and when a commodity is exported (date of exportation). The identification of the U.S. Principal Party in Interest (USPPI) shows who is exporting goods for consumption (control purposes), while the USPPI and/or the forwarding or other agent information provides a contact for verification of the information.

The information is used by the Federal Government and the private sector. The Federal Government uses every data element on the SED/AES record for statistical purposes, export control, and/or to obtain data to avoid taking additional surveys.

Data collected from the SED/AES serves as the official records of export

transactions. In addition, the mandatory use of the AES record will enable the U.S. Government to produce more accurate export statistics. Currently, the mandatory use of the AES in specific export situations facilitates the Bureau of Industry and Security (BIS) and the CBP to enforce the Export Administration Regulations for the detection and prevention of exports of high technology commodities to unauthorized destinations; the enforcement of the International Traffic in Arms Regulations (ITAR) by the U.S. Department of State; and the validation of the Kimberly Process Certificate for the export of rough diamonds.

Other Federal agencies use the data to develop the components of the merchandise trade figures used in the calculations for the balance of payments and GDP accounts to evaluate the effects of the value of U.S. exports; to plan and examine export promotion programs and agricultural development and assistance programs; and to prepare for and assist in trade negotiations under the General Agreement on Tariffs and Trade. Collection of these data also eliminate the need for conducting additional surveys for the collection of information as the SED/AES record shows the relationship of the parties to the export transaction (as required by the Bureau of Economic Analysis). The SED/AES record data are also used by the Bureau of Labor Statistics as a source for developing the export price index and by the Department of Transportation for administering the negotiation of reciprocal arrangements for transportation facilities between the United States and other countries.

A collaborative effort amongst the Census Bureau, the National Governors' Association and other data users resulted in the development of export statistics requiring the state of origin to be reported on the paper SED/AES record. The information collected enables state governments to focus activities and resources on fostering exports of the kinds of goods that originate in their states.

Export statistics collected from the SED/AES record aid private sector companies, financial institutions, and transportation entities in conducting market analysis and market penetration studies for the development of new markets and market-share strategies. Port authorities, steamship lines, steamship freight conferences, airlines, aircraft manufacturers, and air transport associations use these data for measuring the volume and effect of air or vessel shipments and the need for additional or new types of facilities.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S.C., Chapter 9, Sections 301–307, mandates the collection of these data. The regulatory provisions for the collection of these data are contained in the Foreign Trade Statistics Regulations, Title 15, Code of Federal Regulations (CFR), Part 30.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: February 20, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3503 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Current Population Survey (CPS) Housing Vacancy Survey (HVS)

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before April 25, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jim Back, U.S. Census Bureau, 7H003M, Washington, DC 20233–8400, (301) 763–3806 (or via the Internet at *james.r.back@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is requesting clearance for the collection of data concerning the HVS. The current clearance expires October 31, 2008. The HVS has been conducted in conjunction with the CPS since 1956 and serves a broad array of data users as described below.

Census conducts the HVS interviews with landlords or other knowledgeable people concerning vacant housing units identified in the monthly CPS sample and meeting certain criteria. The HVS provides the only quarterly and annual statistics on rental vacancy rates and homeownership rates for the United States, the four census regions, the 50 states and the District of Columbia, and the 75 largest metropolitan areas (MAs). The private and public sector organizations use these rates extensively to gauge and analyze the housing market with regard to supply, cost, and affordability at various points in time. In addition, the rental vacancy rate is a component of the index of leading economic indicators published by the Department of Commerce.

Policy analysts, program managers, budget analysts, and congressional staff use these data to advise the executive and legislative branches of government with respect to the number and characteristics of units available for occupancy and the suitability of housing initiatives. Several other government agencies use these data on a continuing basis in calculating consumer expenditures for housing as a component of the gross national product; to project mortgage demands; and to measure the adequacy of the supply of rental and homeowner units. In addition, investment firms use the HVS data to analyze market trends and for economic forecasting.

II. Method of Collection

Field representatives collect this HVS information by personal-visit interviews in conjunction with the regular monthly CPS interviewing. Census collect HVS data concerning units that are vacant and intended for year-round occupancy

as determined during the CPS interview. Approximately 6,518 units in the CPS sample meet these criteria each month. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Control Number: 0607–0179.

Form Number: HVS–600 (Fact Sheet for the Housing Vacancy Survey); CPS–263 (MIS–1) (L) (Introductory letter explaining the need for the survey and answering frequently asked questions); and BC–1428RV (Brochure—The U.S. Census Bureau Respects Your Privacy and Keeps Your Personal Information Confidential).

Type of Review: Regular submission.

Affected Public: Individuals or households (knowledgeable of the vacant sample unit, e.g., landlord, rental agents, neighbors).

Estimated Number of Respondents: 78,216 (6,518 per month).

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 3,910.

Estimated Total Annual Cost: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 20, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3504 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Pre-Canvass for the 2008 Business Research and Development Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before April 25, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Richard S. Hough, 301–763–4823 (or via the Internet at *richard.s.hough@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau, with support from the National Science Foundation, plans to conduct a pre-canvass for the 2008 Business Research and Development Survey (formerly the Survey of Industrial Research and Development).

The pre-canvass will be conducted to improve the efficiency and accuracy of the sample frame for the 2008 Business Research and Development Survey. It will contain a small number of questions (approximately 3 to 5), in the form of check boxes, to determine if the company has research and development expenditures and if so, a range of the volume of those expenditures. Census will eliminate, from the sample frame, companies that do not have R&D expenditures, improving the resulting sample for the 2008 survey.

II. Method of Collection

The Census Bureau will use mail out/mail back survey forms and a web-based collection for the pre-canvass. Companies will be asked to respond within 30 days of the initial mail out.

III. Data

OMB Control Number: 0607–0912.

Form Number: BRD–08S.

Type of Review: Regular submission.

Affected Public: Manufacturing, mining, construction and services companies.

Estimated Number of Respondents: 30,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 7,500.

Estimated Total Annual Cost: $120,000.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Section 182, 224, and 225.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 20, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3505 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Mohammad Fazeli

In the Matter of: Mohammad Fazeli, 545 S. Atlantic Blvd. #C, Los Angeles, CA 90022.

Order

On September 12, 2007, I entered an Order [1] denying Mohammad Fazeli (''Fazeli'') all U.S. export privileges until August 7, 2012, pursuant to Section 11(h) of the Export Administration Act [2] and Section 766.25 of the Export Administration Regulations,[3] and based on a criminal conviction of violating the International Emergency Economic Powers Act (50 U.S.C. 1701–1705 (2000)) (''IEEPA'').

Whereas, the September 12, 2007 Order identified Fazeli's addresses as ''1439 Saltair Fazeli Ave., Los Angeles, CA 90025'', and ''112 West 9th Street, Suite 1115, Los Angeles, CA 90015'';

Whereas, the Office of Export Enforcement, Bureau of Industry and Security, U.S. Department of Commerce (''Department''), has confirmed that these two addresses are no longer correct, and that Fazeli's current address is ''545 S. Atlantic Blvd. #C, Los Angeles, CA 90022''; and

Whereas, as a result of the information the Department obtained regarding Fazeli's current address, the Department has requested that an order be issued amending the September 12, 2007 Order to reflect that new address for Fazeli;

Accordingly, *It is hereby ordered* that the September 12, 2007 Order denying all U.S. export privileges to Mohammad Fazeli is amended by deleting the addresses ''1439 Saltair Fazeli Ave., Los Angeles, CA 90025'', and ''112 West 9th Street, Suite 1115, Los Angeles, CA 90015'', and by adding the address ''545 S. Atlantic Blvd. #C, Los Angeles, CA 90022''. In all other aspects, the September 12, 2007 Order remains in full force and effect.

This Order, which is effective immediately, shall be published in the **Federal Register**.

Dated: February 12, 2008.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 08–826 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DT–M

[1] 72 Fed. Reg. 54427, Tuesday, September 25, 2007.

[2] 50 U.S.C. app. 2401–2420. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), as extended by the August 15, 2007 (72 Fed. Reg. 46137, Aug. 16, 2007), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA'').

[3] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2007).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Chlorinated Isocyanurates From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5047 and (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 2007, the Department of Commerce (''the Department'') published the initiation of the administrative review of the antidumping duty order on chlorinated isocyanurates from the People's Republic of China (''PRC''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 72 FR 41057 (July 26, 2007). This review covers the period June 1, 2006, through May 31, 2007. The preliminary results of this review are currently due no later than March 1, 2008.

Extension of Time Limit for Preliminary Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the preliminary results of the administrative review of chlorinated isocyanurates from the PRC within this time limit. Specifically, due to unusually complicated factor of production calculations and additional supplemental questionnaires needed to accurately calculate the respondents' antidumping duty margins, we find that additional time is needed to complete these preliminary results. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completion of the preliminary results of this review by 60 days until April 30, 2008. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: February 15, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–3529 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 08–00002]

Export Trade Certificate Of Review

ACTION: Notice of application for an Export Trade Certificate of Review from Wilco Machine & Fab, Inc.

SUMMARY: Export Trading Company Affairs (''ETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review (''Certificate''). This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the

applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021–X H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 08–00002.'' A summary of the application follows.

Summary of the Application:

Applicant: Wilco Machine & Fab, Inc. (''Wilco''), P.O. Box 48, 1326 S. Broadway, Marlow, Oklahoma 73055.

Contact: Mr. Anthony Chandler, Manager, Telephone: (580) 658–6993.

Application No.: 08–00002.

Date Deemed Submitted: February 11, 2008.

Members (in addition to applicant): None.

Wilco seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

Products

All Products manufactured by Wilco, including all fabricated, machined, or assembled pressure vessels, tanks, bulk transport trailers, bulk storage trailers, bulk plants, or any components of or tools for the aforementioned items (North American Industry Classification System codes: 333132; 332313; 33242; and 332439).

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. Wilco, on its own behalf may:

a. *Sales Price:* Establish sale process, minimum sales prices, target sale prices and/or minimum target sales prices, and other terms of sale in Export Markets.

b. *Marketing and Distribution:* Conduct marketing and distribution of Products in Export Markets.

c. *Promotion:* Conduct promotion of Products.

d. *Quantities:* Determine quantities of Products to be sold.

e. *Market and Customer Allocation:* Allocate geographic areas or countries in the Export Markets and/or customers in the Export Markets to agency representatives or export intermediaries.

f. *Refusals To Deal:* Refuse to quote prices for Products, or to market or sell Products, to or for any customers in the Export Markets, or any countries or geographical areas in the Export Markets.

g. *Exclusive and Nonexclusive Export Intermediaries:* Enter into exclusive and nonexclusive agreements appointing one or more export intermediaries for the sale of Products with price, quantity, territorial and/or customer restrictions as provided above.

2. Wilco may exchange and discuss the following information:

a. Information about sale and marketing efforts for the Export Markets, activities and opportunities for sales of Products in the Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contract and pricing in the Export Markets, project demands in the Export Markets for Products, customary terms of sale in the Export Markets, price and availability of products from competitors for sale in Export Markets, and specifications for Products by customers in the Export Markets.

b. Information about price, quality, quantity, source, and delivery dates of Products.

c. Information about terms and conditions of contracts for sale in the Export Markets to be considered and/or bid on by Wilco.

d. Information about bidding, selling, or sales arrangements for the Export Markets.

e. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes.

f. Information about U.S. and foreign legislation and regulations, including federal marketing order programs, affecting sales for the Export Markets.

g. Information about Wilco's export operations, including without limitation, sales and prior export sales information including export price information.

h. Information about export customer credit terms and credit history.

3. Wilco may meet with customers, agency representatives, or export intermediaries to discuss or engage in the activities described above.

Definition:

''Export Intermediary'' means a person who acts as a distributor, sales representative, sales or marketing agent, import agent, broker, or who performs similar functions including providing or arranging for the provision of Export Trade Facilitation Services.

Dated: February 18, 2008.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E8–3426 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 07–00006.

SUMMARY: On February 19, 2008, the U.S. Department of Commerce issued an Export Trade Certificate of Review to Glokle, Inc. (''GINC''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2006).

Export Trading Company Affairs (''ETCA'') is issuing this notice pursuant

to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

All products.

2. Services

All services.

3. Technology Rights

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets that relate to Products and Services.

4. Export Trade Facilitation Services (as they relate to the export of Products, Services, and Technology Rights)

Export Trade Facilitation Services, including, but not limited to, professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and facilitating the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. With respect to the sales of Products and Services, licensing of Technology Rights and provisions of Export Trade Facilitation Services, GINC, subject to the terms and conditions listed below, may:

a. Provide and/or arrange for the provisions of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights to Export Markets;

d. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;

f. Allocate export orders among Suppliers;

g. Establish the price of Products, Services, and/or Technology Rights for sales and/or licensing in Export Markets;

h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights; and

i. Enter into contracts for shipping of Products to Export Markets.

2. GINC may exchange information on a one-to-one basis with individual Suppliers regarding that Supplier's inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating export with distributors.

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operations, GINC will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. GINC will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standard of Section 303(a) of the Act.

Definition

''Supplier'' means a person who produces, provides, or sells Products, Services, and/or Technology Rights.

Protection Provided by Certificate

This Certificate protects GINC and its directors, officers, and employees acting on its behalf, from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits GINC from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to GINC by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion of the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of GINC or (b) the legality of such business plans of GINC under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in Export Trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the ''Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition),'' 50 FR 1786 (January 11, 1985).

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 19, 2008.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E8–3478 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–507–601]

Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 28, 2007, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results in the countervailing duty (CVD) new shipper review of certain in–shell roasted pistachios from Iran. *See Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Preliminary Results of Countervailing Duty New Shipper Review*, 72 FR 67276 (*Preliminary Results*). The Department has now completed this new shipper review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act).

Based on our analysis of the comments received, the Department has not revised the net subsidy rate for Ahmadi's Agricultural Productions, Processing and Trade Complex (Ahmadi), the respondent company in this proceeding. The final net subsidy rate for the reviewed company is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4225, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4161.

SUPPLEMENTARY INFORMATION:

Background

On November 28, 2007, the Department published in the **Federal Register** its *Preliminary Results*. We invited interested parties to comment on these results. Since the preliminary results, the following events have occurred:

On December 28, 2007, we received case briefs from petitioners.[1] In response to a request from the Department, CalPure submitted a revised case brief on January 15, 2008. A hearing was held in response to a request from CalPure on January 17, 2008.

In accordance with 19 CFR 351.214(b), this new shipper review covers only those producers or exporters for which a review was specifically requested. Accordingly, this new shipper review covers Ahmadi and ten programs for the period of review January 1, 2006, through December 31, 2006.

Scope of the Order

The product covered by this order is all roasted in–shell pistachio nuts, whether roasted in Iran or elsewhere, from which the hull has been removed, leaving the inner hard shells and the edible meat, as currently classifiable in the HTSUS under item number 0802.50.20.00. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

For a discussion of the programs and the issues raised in the briefs by parties to this review, *see* the ''Issues and Decision Memorandum'' from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, concerning the ''Final Results of Countervailing Duty New Shipper Review: Certain In–shell Roasted Pistachios from the Islamic Republic of Iran'' (Decision Memorandum), dated February 19, 2008, which is hereby adopted by this notice. A listing of the issues which parties raised and to which we have responded, which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU), room 1117 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

In accordance with section 777A(e)(1) of the Act, 19 CFR 351.221(b)(5), and 19 CFR 351.214(i), we calculated an ad valorem subsidy rate for Ahmadi for calendar year 2006.

Producer/Exporter	Net Subsidy Rate
Ahmadi's Agricultural Productions, Processing and Trade Complex (Ahmadi)	0.00 percent *ad valorem*

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of the final results of this new shipper review to liquidate shipments of subject merchandise by Ahmadi entered, or withdrawn from warehouse, for consumption on or after January 1, 2006, through December 31, 2006, without regard to countervailing duties because a zero percent subsidy rate was calculated.

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of subject merchandise from Ahmadi entered or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced and exported by Ahmadi, the cash deposit rate will be zero; (2) for subject merchandise produced by Ahmadi but not exported by Ahmadi, the cash deposit rate will continue to be the all–others rate (*i.e.*, 317.89 percent *ad valorem*); and (3) for subject merchandise exported by Ahmadi but not produced by Ahmadi, the cash deposit rate will continue to be the all–others rate (*i.e.*, 317.89 percent *ad valorem*). The cash deposit rate for all other producers and/or exporters is not effected by these final results.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with sections 751(a)(2)(C), 751(a)(3) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

[1] Petitioners include the Western Pistachio Association (WPA) and its members and a domestic interested party, Cal Pure Pistachios, Inc. (Cal Pure).

Dated: February 19, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I – Issues and Decision Memorandum

I. Analysis Of Programs

A. Programs Determined to Be Not Used

1. *Provision of Fertilizer and Machinery*
2. *Provision of Credit*
3. *Tax Exemptions*
4. *Provision of Water and Irrigation Equipment*
5. *Technical Support*
6. *Duty Refunds on Imported Raw or Intermediate Materials Used in the Production of Export Goods*
7. *Program to Improve Quality of Exports of Dried Fruit*
8. *Iranian Export Guarantee Fund*
9. *GOI Grants and Loans to Pistachio Farmers*
10. *Crop Insurance for Pistachios*

II. Total *Ad Valorem* Rate

III. Analysis Of Comments

Comment 1: Whether Ahmadi's Sale of Subject Merchandise Constitutes a Bona Fide Sale

Comment 2: Whether the Department Should Assign an Adverse Facts Available Net Subsidy Rate to Ahmadi Because of the GOI's Failure to Cooperate with the Department By Providing Incomplete Questionnaire Responses

Comment 3: Whether the Department Should Assign an Adverse Facts Available Net Subsidy Rate to Ahmadi on the Grounds That it Failed to Respond to the Department's Questionnaires to the Best of its Ability

Comment 4: Whether the All–Others Rate Stated in the Preliminary Results Is Inaccurate and Should Be Corrected

[FR Doc. E8–3511 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–931)

Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2849 and (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On January 30, 2008, the Department of Commerce (the ''Department'') received a petition filed in proper form by Bristol Metals, L.P., Felker Brothers Corp., Marcegaglia USA Inc., Outokumpu Stainless Pipe, Inc., and the United Steel Workers of America (the ''petitioners''), domestic producers of circular welded austenitic stainless pressure pipe (''CWASPP'' or ''subject merchandise''). In response to the Department's request, the petitioners provided timely information supplementing the petition on February 5, February 11, and February 14, 2008.

In accordance with Section 702(b)(1) of the Tariff Act of 1930, as amended (''the Act''), the petitioners allege that manufacturers, producers, or exporters of CWASPP in the People's Republic of China (''PRC'') receive countervailable subsidies within the meaning of Section 701 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in Section 771(9)(C) of the Act and the petitioners have demonstrated sufficient industry support with respect to the countervailing duty investigation (*see* ''Determination of Industry Support for the Petition'' section below).

Period of Investigation

The period of investigation (''POI'') is January 1, 2007, through December 31, 2007.

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe (''CWASPP'') not greater than 14 inches in outside diameter. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (''HTSUS''). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (''CRU''), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to Section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the PRC for consultations with respect to the countervailing duty petition. The Department held these consultations in Beijing, China, with representatives of the Government of the PRC on February 15, 2008. *See* the February 15, 2008, Memorandum to The File, entitled,

''Consultations Regarding the Petition on Welded Stainless Steel Pressure Pipe from the People's Republic of China'' on file in the CRU of the Department of Commerce, Room 1117.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, Section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (Section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that CWASPP constitutes a single domestic like product, which is defined further in the ''Scope of the Investigation'' section above, and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see Countervailing Duty Investigation Initiation Checklist: Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China* (''*PRC Initiation Checklist*'') at Attachment II, on file in the CRU.

In determining whether the petitioners have standing (*i.e.*, those domestic workers and producers supporting the petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the petition with reference to the domestic like product as defined in Attachment I (Scope of the Petition), to the *PRC Initiation Checklist*. To establish industry support, the petitioners provided their shipments for the domestic like product for the year 2007 and compared them to shipments of the domestic like product for the industry. In their February 13, 2008, supplement to the petition, the petitioners demonstrated the correlation between shipments and production. *See* February 13, 2008, Supplement to the petition. Based on the fact that total industry production data for the domestic like product for 2007 is not reasonably available, and that the petitioners have established that shipments are a reasonable proxy for production data, we have relied upon shipment data for purposes of measuring industry support. For further discussion *see PRC Initiation Checklist* at Attachment II (Industry Support).

Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicates that the petitioners have established industry support. First, the petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 702(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under 702(c)(4)(A)(i) because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under Section 702(c)(4)(A)(ii) because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of Section 702(b)(1) of the Act. *See PRC Initiation Checklist* at Attachment II (Industry Support).

The Department finds that the petitioners filed the petition on behalf of the domestic industry because they are an interested party as defined in section 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department initiate. *See PRC Initiation Checklist* at Attachment II (Industry Support).

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of Section 701(b) of the Act, Section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of CWASPP from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threatening to cause, material injury to the domestic industry producing CWASPP. In addition, the petitioners allege that subsidized imports exceed the negligibility threshold provided for

under Section 771(24)(A) of the Act. The petitioners contend that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, capacity and capacity utilization rate, reduced shipments, underselling and price depression or suppression, lost revenue, reduced employment, decline in financial performance and increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See PRC Initiation Checklist* at Attachment III (Injury).

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under Section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations. The Department has examined the countervailing duty petition on CWASPP from the PRC and finds that it complies with the requirements of Section 702(b) of the Act. Therefore, in accordance with Section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of CWASPP in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see *PRC Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

Preferential Lending

1. Loans and Export Credits Pursuant to the Northeast Revitalization Program

Income Tax Programs

2. ''Two Free, Three Half'' Program
3. Income Tax Reductions for Export–oriented Foreign Investment Enterprises (''FIEs'')
4. Reduced Income Tax Rate for FIEs Located in Economic and Technological Development Zones and Other Special Economic Zones
5. Income Tax Credit or Refund for Reinvestment of FIE Profits
6. Provincial and Local Tax Exemptions and Reductions for Productive FIEs
7. Local Income Tax Reductions in Certain Development Zones
8. Preferential Tax Policies for Research and Development at FIEs

Indirect Tax Programs and Import Tariff Program

9. VAT Refunds on Purchases of Domestically–produced Equipment by FIEs
10. Tax Credits on Purchases of Domestically–produced Equipment by Domestically–owned Companies

Provincial Subsidy Programs

11. Guangdong Province's ''Outward Expansion'' Program
12. Preferential Loans Pursuant to Liaoning Province's Five–Year Framework
13. Preferential Tax Policies for Town and Village Enterprises (''TVEs'')

Provision of Goods or Services for Less than Adequate Remuneration

14. Provision of Stainless Steel Coil for Less than Adequate Remuneration
15. Provision of Land Use Rights for Less than Adequate Remuneration

Government Restraints on Exports

16. Export Restraints on Flat–rolled Steel

For further information explaining why the Department is investigating these programs, see the *PRC Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. *Guangshou High Technologic Enterprise*: Petitioners allege that a producer of CWASPP located in Guangshou received subsidies by virtue of its status as a high technology enterprise, but failed to explain what those alleged subsidies were. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate this program.

2. *Exemption of Export Taxes for CWASPP*: Petitioners allege that producers of CWASPP are exempt from paying certain export taxes that the Government of China (''GOC'') levies on other steel products. Consistent with the Department's decision in the initiation of Light–walled Rectangular Pipe and Tube from the PRC, we find that petitioners have failed to adequately allege how CWASPP producers have been relieved of taxes they would otherwise have paid. *See Notice of Initiation of Countervailing Duty Investigation: Light–walled Rectangular Pipe and Tube from the People's Republic of China*, 72 FR 40281, 40283 (July 24, 2007) (''*LWRP Initiation Notice*'').

3. *City of Shenzhen's Grants to Exporter to Cover Interest on Loans*: Petitioners allege that the City of Shenzhen provides interest payment grants to exporters in the Shenzhen Special Economic Zone (''SEZ''). Consistent with the Department's practice in recent initiations, we are declining to initiate on the allegation because petitioners have failed to provide information indicating that a producer of CWASPP is located in the Shenzhen SEZ. *See, e.g., LWRP Initiation Notice* 72 FR at 40284.

4. *''Famous Brands'' Program*: Petitioners allege that the GOC designates the products of certain firms as ''Famous Brands,'' thereby making the firms eligible for grants and for enhanced trademark protection. In addition, petitioners allege that some provinces have coordinated efforts to build brands from their provinces. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support their allegation with reasonably available information. Therefore, we do not plan to investigate the ''Famous Brands'' program.

5. *Reduced Income Tax Rate for Technology and Knowledge Intensive FIEs*: Petitioners allege that FIEs that qualify as technology intensive or knowledge intensive and have major products listed in a catalogue issued by the Ministry of Science and Technology (''MOST'') pay a reduced income tax of 15 percent. However, there is no mention of ''pipe'' in the catalogue, a fact that petitioners acknowledge. Thus, based on record evidence, producers of subject merchandise cannot use this program. Therefore, we do not plan to investigate this program.

6. *Provision of Electricity, Natural Gas, and Water for Less than Adequate Remuneration*: Petitioners allege that the GOC controls electricity, natural gas, and water prices through the National Development and Reform Commission. Petitioners state that the government caps the price that power generation companies can charge. Petitioners maintain that the steel industry has benefited from preferential treatment in both the prices of these utilities as well as access to the utilities.

Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support their allegation with reasonably available information. Therefore, we are not investigating the provision of electricity, natural gas, and water for less than adequate remuneration.

7. *The State Key Technologies Renovation Project Fund*: Petitioners allege that the purpose of this subsidy program is to promote technological renovations and improvements in key industries through the grant of funds equal to two or three years of interest expense payments for the projects depending upon the region of the country in which the project occurs, not to exceed 15 percent of the total cost of the project. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support their allegation with reasonably available information. Therefore, we do not plan to investigate ''The State Key Technologies Renovation Project Fund'' program.

Because petitioner has not sufficiently alleged countervailable subsidies for these programs, we are not initiating on them at this time.

Application of the Countervailing Duty Law to the PRC

The Department has treated the PRC as a non–market economy (''NME'') country in all past antidumping duty investigations and administrative reviews. In accordance with Section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and 10 Unfinished, (TRBs) From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500–1 (February 14, 2003), unchanged in *TRBs from the People's Republic of China: Final Results of 2001–2002 Administrative Review*, 68 FR 70488, 70488–89 (December 18, 2003).

In the final affirmative countervailing duty determination on coated free sheet paper from the PRC, the Department determined that the current nature of the PRC economy does not create obstacles to applying the necessary criteria in the CVD law. *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and the accompanying Issues and Decision Memorandum at Comment 1. Therefore, because the petitioners have provided sufficient allegations and support of their allegations to meet the statutory criteria for initiating a CVD investigation of CWASPP from the PRC, initiation of a CVD investigation is warranted in this case.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POI. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

Distribution of Copies of the Petition

In accordance with Section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by Section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized CWASPP from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* Section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to Section 777(i) of the Act.

Dated: February 19, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–3510 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–840, A–570–920]

Lightweight Thermal Paper From Germany and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or George McMahon (Germany), or Frances Veith (the People's Republic of China), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–3797, (202) 482–1167, (202) 482–4295, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determinations

On October 29, 2007, the Department of Commerce (the Department) initiated the antidumping duty investigations of lightweight thermal paper from Germany, the Republic of Korea, and the People's Republic of China (PRC). *See Notice of Initiation of Antidumping Duty Investigations: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China,* 72 FR 62430 (November 5, 2007). The notice of initiation stated that the Department would issue its preliminary determinations for these investigations no later than 140 days after the date of issuance of the initiation, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act). On December 5, 2007, the International Trade Commission (ITC) determined that imports of lightweight thermal paper from the Republic of Korea were negligible, and therefore, terminated the investigation with regard to the Republic of Korea. *See Certain Lightweight Thermal Paper From China, Germany, and Korea,* 72 FR 70343 (December 11, 2007). On February 6, 2008, the petitioner, Appleton Papers Inc. (Appleton), made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) and (e) for a 50-day postponement of the preliminary determinations. The petitioner requested postponement of the preliminary determinations for Germany and the PRC in order to allow

for additional time to evaluate the respondents' questionnaire responses in these investigations. Under section 733(c)(1)(A) of the Act, if the petitioner makes a timely request for an extension of the period within which the preliminary determination must be made under subsection (b)(1), then the Department may postpone making the preliminary determination under subsection (b)(1) until not later than the 190th day after the date on which the administrative authority initiated the investigation. For the reason identified by the petitioner and because there are no compelling reasons to deny the request, the Department is postponing the deadline for the preliminary determinations under section 733(c)(1)(A) of the Act by 50 days to May 6, 2008. The deadline for the final determinations will continue to be 75 days after the date of the preliminary determinations, unless extended.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: February 19, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–3534 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–881]

Malleable Cast Iron Pipe Fittings From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Andrea Staebler Berton, AD/CVD Operations, Office 8, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4037.

Background

On December 3, 2007, the Department of Commerce (''the Department'') published a notice of opportunity to request an administrative review of the antidumping duty order on malleable cast iron pipe fittings from the People's Republic of China (''PRC'') for the period of review (''POR'') December 1, 2006, through November 30, 2007.[1] On December 28, 2007, Beijing Sai Lin Ke Hardware Co., Ltd. (''SLK'') requested that the Department conduct a review of its sales and entries of subject merchandise into the United States during the POR. On December 31, 2007, Mueller Comercial de México, S. de R.L. de C.V. (''Mueller'') requested that the Department conduct an administrative review of its sales and entries of subject merchandise into the United States during the POR. No other parties requested a review. On January 28, 2008, the Department published the *Initiation Notice* covering SLK and Mueller.[2] On January 29, 2008, the Department sent interested parties U.S. Customs and Border Protection (''CBP'') data that the Department intended to rely upon in selecting the mandatory respondent. The Department invited interested parties to submit comments on this data no later than February 5, 2008. However, on January 30, 2008, SLK withdrew its request for review. On February 6, 2008, Mueller withdrew its request for an administrative review.

Rescission of Review

The Department's regulations at 19 CFR 351.213(d)(1) provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws its request at a later date if the Department determines that it is reasonable to extend the time limit for withdrawing the request. SLK and Mueller timely withdrew their requests before the 90-day deadline. Therefore, we are rescinding this review of the antidumping duty order on malleable cast iron pipe fittings from the PRC covering the period December 1, 2006, through November 30, 2007. The Department intends to issue assessment instructions to CBP 15 days after publication of this rescission notice. The Department will instruct CBP to assess antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review,* 72 FR 67889 (December 3, 2007).

[2] *See Initiation of Antidumping or Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 73 FR 4829 (January 28, 2008).

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 15, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–3532 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–923]

Raw Flexible Magnets From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of raw flexible magnets (RFM) from the People's Republic of China (PRC). For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice.

DATES: *Effective Date:* February 25, 2008.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4793 and (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On September 21, 2007, the Department received the petition filed in proper form by Magnum Magnetics Corporation (petitioner). This investigation was initiated on October 11, 2007. *See Raw Flexible Magnets from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation,* 72 FR 59076 (October 18, 2007) (*Initiation Notice*), and accompanying Initiation Checklist.[1] On November 8, 2007, petitioner timely requested a 65-day extension of the preliminary determination in this investigation, pursuant to section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.205(e). On November 26, 2007, the Department postponed the deadline for the preliminary determination by 65 days to no later than February 19, 2008. *See Raw Flexible Magnets from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 72 FR 67911 (December 3, 2007).

Due to the large number of producers and exporters of RFM in the PRC, we determined that it is not possible to investigate individually each producer or exporter and, therefore, selected three producers/exporters of RFM to be mandatory respondents: China Ningbo Cixi Import Export Corporation (Cixi), Polyflex Magnets Ltd. (Polyflex), and Qualita Magnets Ltd. (Qualita) (collectively, respondents). *See* Memorandum from the Team, through Melissa Skinner, Director, Office 3, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, regarding Respondent Selection (October 24, 2007).[2]

On October 25, 2007, we issued our initial countervailing duty (CVD) questionnaire to the Government of the People's Republic of China (the GOC) and the mandatory respondents. On October 25, 2007, we also issued directly to the three mandatory respondents an export shipment questionnaire. Polyflex and Qualita submitted their respective responses to the export shipment questionnaire on November 8, 2007. Polyflex reported that it exported subject merchandise that entered the United States during the period of investigation. Qualita reported that it did not export to the United States merchandise covered under the scope of the CVD investigation, which entered the United States during the period of investigation. Cixi did not submit a response to either the October 25, 2007, export shipment questionnaire or the initial CVD questionnaire.

On December 14, 2007, the GOC and Polyflex submitted their respective responses to the initial CVD questionnaire. On January 11, 2008, we issued a supplemental questionnaire to Polyflex and the GOC. Polyflex submitted its supplemental questionnaire response on February 1, 2008. On February 4, 2008, the GOC submitted its supplemental questionnaire response. On February 7, 2008, we issued a second supplemental questionnaire to Polyflex and the GOC, respectively. On February 12, 2008, Polyflex submitted a letter stating that it will no longer be participating in the CVD investigation on raw flexible magnets from the PRC.

Scope of the Investigation

The products covered by this investigation are certain flexible magnet sheeting, strips, and profile shapes. Subject flexible magnet sheeting, strips, and profile shapes are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized. Subject flexible magnet sheeting, strips, and profile shapes are capable of being permanently magnetized, but may be imported in either magnetized or unmagnetized (including demagnetized) condition. Subject merchandise may be of any color and may or may not be laminated or bonded with paper, plastic or other material, which paper, plastic or other material may be of any composition and/or color. Subject merchandise may be uncoated or may be coated with an adhesive or any other coating or combination of coatings. Subject merchandise is within the scope of this investigation whether it is in rolls, coils, sheets, or pieces, and regardless of physical dimensions or packaging, including specialty packaging such as digital printer cartridges.

Specifically excluded from the scope of this investigation is retail printed flexible magnet sheeting, defined as flexible magnet sheeting (including individual magnets) that is laminated with paper, plastic or other material, if such paper, plastic or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnet sheeting if the printing concerned consists of only: a trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet sheeting; manufacturing or use instructions (*e.g.*, ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use, such as application of laminate) or on any other covering that is removed from the flexible magnet sheeting prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet sheeting to be re-printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of the subject merchandise that are not specifically excluded are included in this scope. The products subject to the investigation are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes, however, and the written description of the scope of this proceeding is dispositive.

Scope Comments

In accordance with the *Preamble* to the Department's regulations (*see Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*)), in our *Initiation Notice,* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice.* On November 7, 2007, SH Industries, an interested party, submitted timely scope comments.[3] In its comments, SH Industries argues that magnetic photo pockets, which are flexible magnets with clear plastic laminations that form a pocket into

[1] A public version of this and all public Departmental memoranda is on file in the Central Records Unit (CRU), room 1117 in the main building of the Commerce Department.

[2] A public version of this memorandum is available in the CRU.

[3] This public document is available on the public record of each investigation (A–570–922, A–583–842, and C–570–923) in the Department's CRU.

which photographs and other items may be inserted for display, should be excluded from the scope of the antidumping (AD) and CVD investigations on RFM from the PRC and Taiwan. On November 13, 2007, petitioner filed a response to SH Industries' comments arguing that magnetic photo pockets are properly within the scope of the investigations.[4] The Department is evaluating the comments submitted by both parties and will issue its decision regarding the scope of the investigations in the preliminary determination of the companion AD investigations due on April 18, 2008.

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (the ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to a U.S. industry. On November 9, 2007, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC of subject merchandise. *See Raw Flexible Magnets from China and Taiwan,* Investigation Nos. 701–TA–452 and 731–TA–1129 and 1130 (Preliminary), 72 FR 63629 (November 9, 2007).

Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

On October 11, 2007, the Department initiated AD and CVD investigations of RFM from the PRC and Taiwan. *See Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan,* 72 FR 59071 (October 18, 2007), and also *Initiation Notice* (for the PRC CVD investigation). The CVD investigation and the AD investigations have the same scope with regard to the merchandise covered.

On February 12, 2008, the petitioner submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final CVD determination with the final determination in the companion AD investigation of RFM from the PRC. Therefore, in accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), we are aligning the final CVD determination with the final determination in the companion AD investigation of RFM from the PRC. The final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on or about July 2, 2008.

Period of Investigation

The period of investigation (the POI) for which we are measuring subsidies is January 1, 2006, through December 31, 2006. *See* 19 CFR 351.204(b)(2).

Application of the Countervailing Duty Law to Imports From the PRC

On October 25, 2007, the Department published the final determination of coated free sheet paper from the PRC. *See Coated Free Sheet Paper from the Republic of China: Final Determination of Countervailing Duty Investigation,* 72 FR 60645 (October 25, 2007) (*CFS China Final*), and accompanying Issues and Decision Memorandum (CFS Decision Memorandum). In that determination, the Department found, ''given the substantial differences between the Soviet-style economies and the PRC's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.'' *See* CFS Decision Memorandum at Comment 6, ''Comparison of the Department's Findings in the Georgetown Memo and the August 30 Market Economy Status Memo,'' *see also* Memorandum to David M. Spooner, ''Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China—Whether the Analytical Elements of the Georgetown Steel Opinion are Applicable to China's Present-day Economy,'' (March 29, 2007) at 2.[5]

Recently, the Department has preliminarily determined that it is appropriate and administratively desirable to identify a uniform date from which the Department will identify and measure subsidies in the PRC for purposes of the CVD law. *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 72 FR 63875 (November 13, 2007) (*CWP from the PRC*); *see also Light-walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 72 FR 67703 (November 30, 2007); *Laminated Woven Sacks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 72 FR 67893 (December 3, 2007); and *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 72 FR 71360 (December 17, 2007).

In *CWP from the PRC,* we preliminarily determined that date to be December 11, 2001, the date on which the PRC became a member of the WTO. Therefore, for the reasons outlined in *CWP from the PRC,* we have limited our analysis to subsidies bestowed after December 11, 2001, for this preliminary determination.

Use of Facts Otherwise Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia,* necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet

[4] The public version of petitioner's submission is available on the public record of each investigation (A–570–922, A–583–842, and C–570–923) in the Department's CRU.

[5] This public document is available on the public record of the investigation of coated free sheet paper from the PRC (C–570–907) in the Department's CRU.

all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

In this case, Cixi did not provide the requested information that is necessary to determine a CVD rate for this preliminary determination. Specifically, Cixi did not respond to either the Department's October 25, 2007, shipment data questionnaire or October 25, 2007, initial CVD questionnaire. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(A) and (C) of the Act, we have based Cixi's CVD rate on facts otherwise available.

On February 12, 2008, Polyflex, which was the only active mandatory respondent, withdrew from this investigation. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(C) and (D) of the Act, we have based Polyflex's CVD rate on facts otherwise available.

Use of Adverse Inferences

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session (1994) at 870. The Department considers information to be corroborated if it has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

In selecting from among the facts available, the Department has determined that, in the instant investigation, an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit a response to the Department's CVD questionnaire, Cixi did not cooperate to the best of its ability in this investigation. We also find that Polyflex, by withdrawing from the investigation, has failed to cooperate to the best of its ability in this investigation. Accordingly, we find that an adverse inference is warranted to ensure that Cixi and Polyflex will not obtain a more favorable result than had each company fully complied with our request for information. Thus, in those instances in which it determines to apply AFA, the Department, in order to satisfy itself that such information has probative value, will examine, to the extent practicable, the reliability and relevance of the information used. With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In selecting the AFA rate, it is the Department's practice to select, where possible, the highest calculated final net subsidy rate for the same type of program at issue. Where such information is not available, it is the Department's practice to apply the highest subsidy rate for any program otherwise listed. *See* CFS Decision Memorandum at ''Use of Adverse Facts Available'' section and Comment 24.

The Department's practice when selecting an adverse margin from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior experience, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc, Inc.* v. *United States,* 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render benefit data not relevant. Where circumstances indicate that the information is not appropriate as adverse facts available, the Department will not use it. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (February 22, 1996). In the instant case, no evidence has been presented or obtained which contradicts the relevance of the benefit data relied upon in a prior China CVD investigation. Thus, in the instant case, the Department finds that the information used has been corroborated to the extent practicable.

Because Cixi and Polyflex failed to act to the best of their ability in this investigation, as discussed above, for each program examined, we made the adverse inference that each company benefitted from each program. To calculate the program rate for the nine alleged income tax programs pertaining to either the reduction of the income tax or the payment of no tax, we have applied an adverse inference that Cixi and Polyflex paid no income tax during the POI. The standard income tax rate for corporations in China is 30 percent, plus a 3 percent provincial income tax rate. Therefore, the highest possible benefit for these nine income tax programs is 33 percent. We are applying the 33 percent AFA rate on a combined basis (*i.e.*, the nine programs combined provided a 33 percent benefit). This 33

percent AFA rate does not apply to tax credit and refund programs. For the remaining programs in this investigation (including the tax credit and refund programs), we used the approach from the *CFS China Final,* as discussed above. Specifically, we are applying, where available, the highest subsidy rate calculated for a similar program in the *CFS China Final.* Absent a subsidy rate calculated for a similar program, we are applying the highest subsidy rate for any program otherwise listed in the *CFS China Final. See* CFS Decision Memorandum at ''Analysis of Programs.'' On this basis, the AFA countervailable subsidy rate determined for Cixi and Polyflex is 70.41 percent *ad valorem. See* Memorandum to the File regarding Adverse Facts Available Rate for China Ningbo Cixi Import Export Corporation and Polyflex Magnets Ltd. (February 19, 2008).[6]

Due to the circumstances of this case, we are taking public information concerning subsidy programs from the record of the CFS China CVD investigation and placing it on the record of this case for use as AFA because we have no other information on the record of this case from which to select appropriate AFA rates for non-income tax programs, and because this is an investigation, we have no previous segments of the proceeding from which to draw potential AFA rates. *See* Memorandum to the File regarding Placing on the RFM Record the Final Affirmative Countervailing Duty Determination of Coated Free Sheet Paper from the People's Republic of China (February 19, 2008). For the final determination, we invite parties to comment on the AFA rates applied to the programs alleged in this investigation.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a countervailable subsidy rate for each producer/exporter of the subject merchandise individually investigated. With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the rate calculated for the two investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which we could determine an all-others rate. As a result, we have used the AFA rate calculated for Cixi and Polyflex as the all-others rate. This method is consistent with the Department's past practice. *See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina,* 66 FR 37007, 37008 (July 16, 2001); *see also Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India,* 68 FR 68356, 68357 (December 8, 2003).

Producer/Exporter	Subsidy rate
China Ningbo Cixi Import Export Corporation	70.41 percent *ad valorem.*
Polyflex Magnets Ltd	70.41 percent *ad valorem.*
All-Others	70.41 percent *ad valorem.*

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of the subject merchandise from the PRC that are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above.

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Unless otherwise notified by the Department, interested parties may submit case briefs within 50 days of the date of publication of the preliminary determination in accordance with 19 CFR 351.309(c)(i). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case briefs are filed. *See* 19 CFR 351.309(d).

In accordance with 19 CFR 351.310(c), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties will be notified of the schedule for the hearing and parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) Party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.221(b)(4).

[6] A copy of this public memorandum in on the public file in the CRU.

February 19, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–3493 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Highly Migratory Species Vessel Logbooks and Cost-Earnings Data Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 25, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Joseph Desfosse, (301) 713–2347 or *Joseph.Desfosse@noaa.gov* or Margo Schulze-Haugen, (301) 713–2347 or *Margo.Schulze_Haugen@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is responsible for management of the nation's marine fisheries. In addition, NMFS must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*), which implements the International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations. NMFS collects information via vessel logbooks to monitor the U.S. catch of Atlantic swordfish, sharks, marlins, and tunas in relation to the quotas, thereby ensuring that the United States complies with its domestic and international obligations. The information supplied through vessel logbooks also provides the catch and effort data necessary to assess the status of highly migratory species and to evaluate bycatch in each fishery. International stock assessments for tunas, swordfish, marlins, and some species of sharks are conducted and presented to the ICCAT periodically and provide, in part, the basis for ICCAT management recommendations which become binding on member nations. The domestic stock assessments for most species of sharks are used as the basis of managing these species. Supplementary information on fishing costs and earnings has been collected via this vessel logbook program. This economic information enables NMFS to assess the economic impacts of regulatory programs on small businesses and fishing communities, consistent with the National Environmental Policy Act (NEPA), Executive Order 12866, the Regulatory Flexibility Act, and other domestic laws.

II. Method of Collection

Logbooks are being completed and submitted in paper form.

III. Data

OMB Control Number: 0648–0371.

Form Number: NOAA Form 88–191.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 7,451.

Estimated Time per Response: 10 minutes for cost/earnings summaries attached to logbook reports; 30 minutes for annual expenditure forms; 12 minutes for logbook catch reports; and 2 minutes for negative logbook catch reports.

Estimated Total Annual Burden Hours: 29,461.

Estimated Total Annual Cost to Public: $0 (no capital or recordkeeping/reporting expenditures required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 20, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3507 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Fishery Capacity Reduction Program Buyback Requests

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 25, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Leo Erwin, (301) 713–2390, or via the Internet at *Leo.Erwin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA has established a program to reduce excess fishing capacity by paying fishermen to (1) surrender their fishing permits or (2) both surrender their permits and either scrap their vessels or restrict vessel titles to prevent fishing.

These fishing capacity reduction programs, or buybacks, can be funded by a Federal loan to the industry or by direct Federal or other funding. These buybacks are conducted pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, and the Magnuson-Stevens Reauthorization Act (Pub. L. 109–479). The regulations implementing the buybacks are at 50 CFR part 600.

Depending upon the type of buyback involved, the program can entail the submission of buyback requests by industry, the submission of bids, referenda of fishery participants, and reporting of the collection of fees to repay a Federal loan. For buybacks involving State-managed fisheries, the State may need to develop the buyback plan and comply with other information requirements. The information collected by NMFS is required to request a buyback, submit supporting data for requested buybacks, to submit bids, and to conduct referenda of fishery participants.

The recordkeeping and reporting requirements at 50 CFR parts 600.1013 through 600.1017 form the basis for this collection of information on fee payment and collection. NMFS requests information from participating buyback participants. This information, upon receipt, tracks the repayment of the Federal loans that are issued as part of the buybacks, and ensures accurate management and monitoring of the loans during the repayment term.

II. Method of Collection

Paper reports or electronic reports are required from buyback participants. Methods of submittal include mailing of paper forms, submission of forms via the Internet, and/or facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0376.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations; individuals or households; and State, Local, or Tribal government.
Estimated Number of Respondents: 1,200.
Estimated Time per Response: 6,634 hours for an implementation plan; 4 hours for a referenda vote; 4 hours for an invitation to bid; 10 minutes to submit a fish ticket; 2 hours for a monthly buyer fee collection report; 4 hours for an annual buyer fee collection report; potentially 270 hours for a State approval of plans and amendments to State fishery management plans; and 1 hour for advising of any holder or owner claims that conflict with accepted bidders' representations about reduction permit ownership or reduction vessel ownership.
Estimated Total Annual Burden Hours: 46,300.
Estimated Total Annual Cost to Public: $2,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 20, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3508 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Commercial Operator's Annual Report (COAR)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 25, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *patsy.bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Magnuson-Stevens Fishery Conservation and Management Act authorizes the North Pacific Fishery Management Council to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. Fishing for groundfish by U.S. vessels in the exclusive economic zone (EEZ) in waters off the coast of Alaska is managed by the National Marine Fisheries Service (NMFS) according to the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMPs). Regulations implementing the FMPs are found at 50 CFR part 679.

The owners of shoreside processors and stationary floating processors are required to annually submit the COAR to the State of Alaska, Department of Fish and Game (ADF&G), under Alaska Administrative Code (AAC), chapter 5 AAC 39.130. Owners of catcher/processors and motherships operating in the EEZ off Alaska are required to annually submit the COAR to ADF&G under 50 CFR part 679.5(p).

The COAR provides information on exvessel and first wholesale values for statewide fish and shellfish products. Containing information from shoreside processors, stationary floating processors, motherships, and catcher/processors, this data collection yields equivalent annual product value information for all respective processing sectors and provides a consistent time series according to which groundfish resources may be managed more efficiently.

II. Method of Collection

Paper reports are required from participants; these reports are transmitted by U.S. mail.

III. Data

OMB Control Number: 0648–0428.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 87.

Estimated Time per Response: 8 hours.

Estimated Total Annual Burden Hours: 696.

Estimated Total Annual Cost to Public: $116.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 20, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3509 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Review Panel

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. Panel members will discuss and provide advice on the National Sea Grant College Program in the areas of program evaluation, strategic planning, education and extension, science and technology programs, and other matters as described in the Agenda below.

DATES: The announced meeting is scheduled for one and one half days: Wednesday, March 5 and Thursday, March 6, 2008.

ADDRESSES: The meeting will be held in the conference room, Consortium for Ocean Leadership, 1201 New York Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Kristin Rasmussen, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11717, Silver Spring, Maryland 20910, 301–713–1088.

SUPPLEMENTARY INFORMATION: The Panel, which consists of a balanced representation from academia, industry, state government and citizens groups, was established by section 209 of the Sea Grant Program Improvement Act of 1976 (Pub. L. 94–461, 33 U.S.C. 1128). The Panel advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice. The agenda for the meeting can be found at: *http://www.seagrant.noaa.gov/leadership/review_panel.html.*

Dated: February 19, 2008.

Mark E. Brown,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research.

[FR Doc. E8–3521 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XF78

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 committee meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Steller Sea Lion Mitigation Committee (SSLMC) will meet in Anchorage, AK.

DATES: The meetings will be held March 10, 2008 through March 14, 2008, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Hawthorne Suite, 1110 West 8th Avenue, Ballroom B, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Bill Wilson, North Pacific Fishery Management Council; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Committee will analyze proposals and develop preliminary recommendations on alternatives to modify fishery management measures.

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: February 20, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–3429 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF71

U.S. Climate Change Science Program Synthesis and Assessment Product Draft Report 4.1: ''Coastal Elevation and Sensitivity to Sea Level Rise''

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to announce a 45-day public comment period for the draft document titled, U.S. Climate Change Science Program Synthesis and Assessment Product 4.1: ''Coastal elevation and sensitivity to sea level rise.''

This draft document is being released solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by NOAA. It does not represent and should not be construed to represent any Agency policy or determination. Any public comments submitted in accordance with this notice will be considered when revising the document.

DATES: Comments must be received by April 10, 2008.

ADDRESSES: The draft of Synthesis and Assessment Product 4.1: ''Coastal elevation and sensitivity to sea level rise'' is posted on the CCSP Web site at:

www.climatescience.gov/Library/sap/sap4–1/default.php

Detailed instructions for making comments on the draft Report is provided on the SAP 4.1 webpage. Comments MUST be prepared and submitted in accordance with these instructions.

FOR FURTHER INFORMATION CONTACT: Dr. Fabien Laurier, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW, Suite 250, Washington, DC 20006, Telephone: (202) 419–3481.

SUPPLEMENTARY INFORMATION: The Climate Change Science Program (CCSP) was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that promote climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues. Synthesis and Assessment Product 4.1 analyzes information from the ongoing mapping efforts by federal and non-federal researchers related to the implications of rising sea level. The report will also develop a plan for sea level rise research to answer the questions that are most urgent for near-term decision-making. This report will provide information that supports the specific goal in Chapter 9 of the Strategic Plan for the Climate Change Science Program to analyze how coastal environmental programs can be improved to adapt to sea level rise while enhancing economic growth.

Dated: February 19, 2008.

William J. Brennan,

Deputy Assistant Secretary of Commerce for International Affairs, and Acting Director, Climate Change Science Program.

[FR Doc. E8–3513 Filed 2–22–08; 8:45 am]

BILLING CODE 3510–12–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 7, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–844 Filed 2–21–08; 11:53 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 14, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–845 Filed 2–21–08; 11:53 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2 p.m., Wednesday March 19, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

FOR FURTHER INFORMATION CONTACT: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–846 Filed 2–21–08; 11:53am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 21, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–847 Filed 2–21–08; 11:53 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 28, 2008.

PLACE: 1155 21st St., NW., Washingotn, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–849 Filed 2–21–08; 11:53 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0095]

Federal Acquisition Regulation; Information Collection; Commerce Patent Regulations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0095).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve

an extension of a currently approved information collection requirement concerning commerce patent regulations, Public Law 98–620. The clearance currently expires on June 30, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 25, 2008.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Contract Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

As a result of the Department of Commerce (Commerce) publishing a final rule in the **Federal Register** implementing Public Law 98–620 (52 FR 8552, March 18, 1987), a revision to FAR Subpart 27.3 to implement the Commerce regulation was published as an interim rule in the **Federal Register** at 54 FR 25060, June 12, 1989. The final rule was published without change on June 21, 1990.

A Government contractor must report all subject inventions to the contracting officer, submit a disclosure of the invention, and identify any publication, or sale, or public use of the invention (52.227–11(c) and 52.227–13(e)(2)). Contractors are required to submit periodic or interim and final reports listing subject inventions (27.303(e)(3)(ii) and 52.227–3(e)(3)). In order to ensure that subject inventions are reported, the contractor is required to establish and maintain effective procedures for identifying and disclosing subject inventions (52.227–11, Alternate IV, and 52.227–13(e)(1)).

In addition, the contractor must require his employees, by written agreements, to disclose subject inventions (52.227–11(e)(2) and 52.227–13(e)(4)). The contractor also has an obligation to utilize the subject invention, and agree to report, upon request, the utilization or efforts to utilize the subject invention (27.302(e) and 52.227–11(f)).

B. Annual Reporting Burden

The annual reporting burden is estimated as follows:

Respondents: 1,200.
Responses per Respondent: 9.75.
Total Responses: 11,700.
Hours per Response: 3.9.
Total Burden Hours: 45,630.
Obtaining Copies or Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VPR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

Dated: February 10, 2008.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E8–3558 Filed 2–22–08; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0078]

Federal Acquisition Regulation; Information Collection; Make-or-Buy Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0078).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning make-or-buy programs. The clearance currently expires on June 30, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 25, 2008.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the General Services Administration, FAR Secretariat (VPR), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0078, Make-or-Buy Program, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jeritta Parnell, Contract Policy Division, GSA (202) 501–4082.

SUPPLEMENTARY INFORMATION:

A. Purpose

Price, performance, and/or implementation of socio-economic policies may be affected by make-or-buy decisions under certain Government prime contracts. Accordingly, FAR 15.407–2, Make-or-Buy Programs (i) Sets forth circumstances under which a Government contractor must submit for approval by the contracting officer a make-or-buy program, *i.e.*, a written plan identifying major items to be produced or work efforts to be performed in the prime contractor's facilities and those to be subcontracted;

(ii) Provides guidance to contracting officers concerning the review and approval of the make-or-buy programs; and

(iii) Prescribes the contract clause at FAR 52.215–9, Changes or Additions to Make-or-Buy Programs, which specifies the circumstances under which the contractor is required to submit for the contracting officer's advance approval a notification and justification of any proposed change in the approved make-or-buy program.

The information is used to assure the lowest overall cost to the Government for required supplies and services.

B. Annual Reporting Burden

Respondents: 150.

Responses per Respondent: 3.

Total Responses: 450.

Hours per Response: 8.

Total Burden Hours: 3,600.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VPR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0078, Make-or-Buy Program, in all correspondence.

Dated: February 15, 2008.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E8–3560 Filed 2–22–08; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation; Meeting

AGENCY: National Committee on Foreign Medical Education and Accreditation, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to announce the upcoming meeting of the National Committee on Foreign Medical Education and Accreditation (the Committee). Parts of this meeting will be open to the public, and the public is invited to attend those portions.

When and Where Will the Meeting Take Place?

We will hold the public meeting on March 6, 2008 from 1 p.m. until approximately 5 p.m. in the Potomac One and Two Room at The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037–6936. You may call the hotel at 202–955–6400 to inquire about room accommodations.

What Assistance Will Be Provided to Individuals With Disabilities?

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting, e.g., interpreting service, assistive listening device, or materials in an alternate format, notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Who Is the Contact Person for the Meeting?

Please contact Ms. Melissa Lewis, the Executive Director for the National Committee on Foreign Medical Education and Accreditation, if you have questions about the meeting. You may contact her at the U.S. Department of Education, room 7127, MS 7563, 1990 K St., NW., Washington, DC 20006, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Melissa.Lewis@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

What Are the Functions of the Committee?

The Committee was established by the Secretary of Education under Section 102 of the Higher Education Act of 1965, as amended.

The Committee's responsibilities are to:

- Evaluate the standards of accreditation applied to applicant foreign medical schools; and
- Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

What Items Will Be on the Agenda for Discussion at the Meeting?

The Committee will review the standards of accreditation applied to medical schools by several foreign countries to determine whether those standards are comparable to the standards of accreditation applied to medical schools in the United States. Discussions of the standards of accreditation will be held in sessions open to the public. Discussions that focus on specific determinations of comparability are closed to the public in order that each country may be properly notified of the decision.

The countries tentatively scheduled to be discussed at the meeting include: The Caribbean Accreditation Authority for Education in Medicine and Other Health Professions, Cayman Islands, Costa Rica, Czech Republic, Ireland, St. Maarten, and the United Kingdom. Beginning February 22, you may call the contact person listed above to obtain the final listing of the countries whose standards will be discussed during this meeting. The listing of countries will also be posted on the Department of Education's Web site at the following address: *http://www.ed.gov/about/bdscomm/list/ncfmea.html.*

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Authority: 5 U.S.C. Appendix 2.

Dated: February 14, 2008.

Diane Auer Jones,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. E8–3469 Filed 2–22–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice Reopening the Deadline Date for the New Fiscal Year (FY) 2008 Awards; Personnel Development To Improve Services and Results for Children With Disabilities Program (CFDA No. 84.324T)

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice reopening the deadline date for the transmittal of applications for new Fiscal Year (FY) 2008 awards.

SUMMARY: On November 27, 2007, a notice inviting applications for new FY 2008 awards under the Personnel Development to Improve Services and Results for Children with Disabilities Program was published in the **Federal Register** (72 FR 66143). The notice provided a deadline date and other information regarding the transmittal of applications for several FY 2008 competitions under the Personnel Development to Improve Services and Results for Children with Disabilities Program. We are reopening the competition for the Special Education Preservice Training Improvement Grants (CFDA No. 84.325T) priority. We understand that eligible applicants may have been confused about the maximum award amount for the five-year project

period for this particular grant, which was mentioned in a footnote to the chart in the *Award Information* section, and we are re-stating it here.

Deadline for Transmittal of Applications: March 10, 2008.

Deadline for Intergovernmental Review: May 9, 2008.

Note to Applicants: The notice inviting applications for the Special Education Preservice Training Improvement Grants (84.325T) competition, published in the **Federal Register** on November 27, 2007 (72 FR 66143), identifies the requirements for applicants. Applicants are advised to pay close attention to the information regarding funding that appears in the first footnote for the 84.325T competition, on page 66150 of the notice. This footnote reads as follows:

> ''We will reject any application that exceeds $500,000 for the five years of the budget period.'' The maximum award amount may not exceed $500,000 across the five-year project period.

FOR FURTHER INFORMATION CONTACT: Bonnie Jones, U.S. Department of Education, 400 Maryland Avenue, SW., room 4153, Potomac Center Plaza (PCP), Washington, DC 20202–2600. Telephone: (202) 245–7395.

If you use a Telecommunications Device for the Deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: February 20, 2008.

Tracy R. Justesen,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E8–3520 Filed 2–22–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12979–000]

Kiamichi Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

February 15, 2008.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–12979–000.

c. *Date Filed:* August 31, 2007.

d. *Applicant:* Kiamichi Hydro, LLC.

e. *Name of the Project:* Hugo Dam Hydroelectric.

f. *Location:* The project would be located on the Kiamichi River in Choctaw County, Oklahoma. The Hugo Dam is owned and maintained by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Brent Smith, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, Phone (208) 745–0834.

i. *FERC Contact:* Patricia W. Gillis, (202) 502–8735.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12979–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing U. S. Army Corps of Engineers' Hugo Dam and would consist of: (1) A proposed 270-foot-long, 144-inch-diameter penstock; (2) a proposed powerhouse containing one generating unit with an installed capacity of 3-megawatts; (3) a switchyard; (4) a proposed 0.2-mile-long, 25-kV transmission line; and (5) appurtenant facilities. The proposed project would have an estimated annual generation of approximately 13.5-gigawatts and would be sold to a local utility.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the

particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3500 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12951–000]

Arkansas River Hydro 5, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 19, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12951–000.

c. *Date Filed:* August 14, 2007.

d. *Applicant:* Arkansas River Hydro 5, LLC.

e. *Name of Project:* Lock and Dam #5 Hydroelectric Project.

f. *Location:* Arkansas River in Jefferson County, Arkansas. It would use the U.S. Army Corps of Engineers' Lock and Dam #5.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12951–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Lock and Dam #5 and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) four turbine/generator units with a combined installed capacity of 90 megawatts; (3) a new 2.1-mile-long above ground 69-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (4) appurtenant facilities. The proposed Lock and Dam #5 Project would have an average annual generation of 280 gigawatt-hours.

l. 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, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the

competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3438 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12954–000]

David Terry Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 19, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12954–000.

c. *Date Filed:* August 14, 2007.

d. *Applicant:* David Terry Hydro, LLC.

e. *Name of Project:* David D. Terry Lock and Dam Hydroelectric Project.

f. *Location:* Arkansas River in Pulaski County, Arkansas. It would use the U.S. Army Corps of Engineers' David D. Terry Lock and Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12954–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' David D. Terry Lock and Dam and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) four turbine/generator units with a combined installed capacity of 90 megawatts; (3) a new 4-mile-long above ground 69-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (4) appurtenant facilities. The proposed David D. Terry Lock and Dam Project would have an average annual generation of 300 gigawatt-hours.

l. 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, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3440 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12952–000]

Emmett Sanders Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 19, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12952–000.

c. *Date Filed:* August 14, 2007.

d. *Applicant:* Emmett Sanders Hydro, LLC.

e. *Name of Project:* Emmett Sanders Lock and Dam #4 Hydroelectric Project.

f. *Location:* Arkansas River in Jefferson County, Arkansas. It would use the U.S. Army Corps of Engineers' Emmett Sanders Lock and Dam #4.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12952–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Emmett Sanders

Lock and Dam #4 and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) four turbine/generator units with a combined installed capacity of 75 megawatts; (3) a new 2.6-mile-long above ground 69-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (4) appurtenant facilities. The proposed Emmett Sanders Lock and Dam #4 Project would have an average annual generation of 230 gigawatt-hours.

l. 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, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3439 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12876–000]

Hydro Green Energy, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 15, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12876–000.

c. *Date Filed:* July 24, 2007.

d. *Applicant:* Hydro Green Energy, LLC.

e. *Name of Project:* Maine 1 Project.

f. *Location:* The project would be located on Lubec Narrows in Washington County, Maine. The project uses no dam or impoundment.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Wayne F. Krouse, Hydro Green Energy, LLC, 5090 Richmond Avenue #390, Houston, TX 77056, phone (877) 556–6566.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12876–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors

filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project consists of: (1) 15 proposed 350 kilowatt dual ducted horizontal axis hydrokinetic generating units having a total installed capacity of 5 megawatts, (2) a proposed 800-foot-long, 13.6-kV transmission line, and (3) appurtenant facilities. The Hydro Green Energy, LLC's project would have an average annual generation of 24.65 gigawatt-hours and be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

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 ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''COMPETING APPLICATION'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3499 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12955–000]

Kentucky Hydro 3, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 19, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12955–000.

c. *Date Filed:* August 14, 2007.

d. *Applicant:* Kentucky Hydro 3, LLC.

e. *Name of Project:* Kentucky River Lock and Dam #3 Hydroelectric Project.

f. *Location:* Kentucky River in Henry County, Kentucky. It would use the U.S. Army Corps of Engineers' Kentucky River Lock and Dam #3.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly

D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12955–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Kentucky River Lock and Dam #3 and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) two turbine/generator units with a combined installed capacity of 9 megawatts; (3) a new 0.25-mile-long aboveground 25-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (4) appurtenant facilities. The proposed Kentucky River Lock and Dam #3 Project would have an average annual generation of 30 gigawatt-hours.

l. 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, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3441 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12950–000]

Toad Suck Ferry Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 19, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12950–000.

c. *Date Filed:* August 14, 2007.

d. *Applicant:* Toad Suck Ferry Hydro, LLC.

e. *Name of Project:* Toad Suck Ferry Lock and Dam Hydroelectric Project.

f. *Location:* Arkansas River in Faulkner County, Arkansas. It would use the U.S. Army Corps of Engineers' Toad Suck Ferry Lock and Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for Filing Comments, Protests, and Motions To Intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12950–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Toad Suck Ferry Lock and Dam and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) four turbine/generator units with a combined installed capacity of 80 megawatts; (3) a new 1.4-mile-long above ground 69-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (4) appurtenant facilities. The proposed Toad Suck Ferry Lock and Dam Project would have an average annual generation of 240 gigawatt-hours.

l. 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, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3437 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12979–000]

Kiamichi Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

February 15, 2008.

Take notice that the following hydroelectric applications have been

filed with the Commission and are available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–12979–000.

c. *Date Filed:* August 31, 2007.

d. *Applicant:* Kiamichi Hydro, LLC.

e. *Name of the Project:* Hugo Dam Hydroelectric.

f. *Location:* The project would be located on the Kiamichi River in Choctaw County, Oklahoma. The Hugo Dam is owned and maintained by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Brent Smith, Symbiotics, LLC, P. O. Box 535, Rigby, ID 83442, Phone (208) 745–0834.

i. *FERC Contact:* Patricia W. Gillis, (202) 502–8735.

j. Deadline for filing comments, protests, and motions to intervene: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12979–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Hugo Dam and would consist of: (1) A proposed 270-foot-long, 144-inch-diameter penstock; (2) a proposed powerhouse containing one generating unit with an installed capacity of 3-megawatts; (3) a switchyard; (4) a proposed 0.2-mile-long, 25-kV transmission line; and (5) appurtenant facilities. The proposed project would have an estimated annual generation of approximately 13.5-gigawatts and would be sold to a local utility.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the

Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–3355 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9300–018–MA]

Mr. James Lichoulas, Jr.; Notice of Availability of Environmental Assessment

February 15, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the proposed termination of license by implied surrender for the Appleton Trust Project, located on the Hamilton Canal in the City of Lowell in Middlesex County, Massachusetts, and has prepared an Environmental Assessment (EA).

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–9300) 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.

Any comments should be filed by March 17, 2008, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please reference the project name and project number (P–9300) on all comments. Comments may be filed electronically via Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. For further information, contact Jon Cofrancesco at (202) 502–8951.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3501 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 19, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP99–176–152.
Applicants: Natural Gas Pipeline Company of America.
Description: Natural Gas Pipeline Company of America submits Second Revised Sheet 26B.03 *et al.* to its FERC Gas Tariff, Sixth Revised Volume 1 of the following tariff sheets proposed to be effective 4/1/08.
Filed Date: 02/15/2008.
Accession Number: 20080215–0224.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 27, 2008.

Docket Numbers: RP99–176–153.
Applicants: Natural Gas Pipeline Company of America.
Description: Natural Gas Pipeline Company of America submits Sixth Revised Sheet 26P–02 and 26P–03 and Original Sheet 414A.16 of its FERC Gas tariff sheets proposed to be effective 4/1/08.
Filed Date: 02/15/2008.
Accession Number: 20080215–0225.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 27, 2008.

Docket Numbers: RP06–407–008.
Applicants: Gas Transmission Northwest Corporation.
Description: Gas Transmission Northwest Corporation submits Substitute Second Revised Sheets 133A *et al.* to FERC Gas Tariff, Third Revised Volume 1–A to be effective 1/1/07.
Filed Date: 02/14/2008.
Accession Number: 20080215–0216.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 26, 2008.

Docket Numbers: RP07–561–001.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits Substitute First Revised Sheet 716 *et al.* to FERC Gas Tariff, Sixth Revised Volume 1, to be effective 2/3/08.
Filed Date: 02/14/2008.
Accession Number: 20080215–0215.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 26, 2008.

Docket Numbers: RP08–198–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company submits Third Revised Sheet 805A *et al.* to FERC Gas Tariff, Sixth Revised Volume 1, to be effective 3/17/08.
Filed Date: 02/15/2008.
Accession Number: 20080215–0222.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 27, 2008.

Docket Numbers: RP08–199–000.
Applicants: Hardy Storage Company, LLC.
Description: Hardy Storage Company, LLC submits First Revised Sheet 10 to its FERC Gas Tariff, Original Volume 1 Tariff with a proposed effective date of April 1, 2008.
Filed Date: 02/15/2008.
Accession Number: 20080215–0223.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 27, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's

eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. E8–3359 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

February 15, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–15–000.

Applicants: Calpine Corporation and Its Public Utili; Harbinger Capital Partners Master Fund I; Harbinger Capital Partners Special Situa; SPO Partners II, L.P.; San Francisco Partners II, L.P.

Description: Calpine Corporation *et al* submits a Notification of Change in Circumstances in compliance with Ordering Paragraph 7 of FERC's 12/31/07 Order.

Filed Date: 02/05/2008.

Accession Number: 20080214–0060.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 26, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–36–000.

Applicants: High Prairie Wind Farm II, LLC.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of High Prairie Wind Farm II, LLC.

Filed Date: 02/13/2008.

Accession Number: 20080213–5044.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 05, 2008.

Docket Numbers: EG08–37–000.

Applicants: Old Trail Wind Farm, LLC.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Old Trail Wind Farm, LLC.

Filed Date: 02/13/2008.

Accession Number: 20080213–5046.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 05, 2008.

Docket Numbers: EG08–38–000.

Applicants: Telocaset Wind Power Partners, LLC.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Telocaset Wind Power Partners, LLC.

Filed Date: 02/13/2008.

Accession Number: 20080213–5047.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 05, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–149–012; ER97–2414–011.

Applicants: Lowell Cogeneration Company Limited Partnership; Dartmouth Power Associates Limited Partnership.

Description: Lowell Cogeneration Company Limited Partnership submits notice of change.

Filed Date: 02/12/2008.

Accession Number: 20080214–0049.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER01–1011–014; 20080214–0047; ER01–1335–012; ER01–642–010; ER07–312–002.

Applicants: CottonWood Energy Company, LP; Dogwood Energy, LLC; Magnolia Energy, LP; Redbud Energy, LP.

Description: Cottonwood Energy Co, LP *et al* submits notice of change in status.

Filed Date: 02/12/2008.

Accession Number: 20080214–0047.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER02–1633–004; ER04–1099–003; ER03–25–003; ER00–38–006; ER03–290–004; ER00–1115–005; ER04–1080–003; ER00–3562–005; ER03–209–004; ER05–816–002; ER05–1422–004; ER05–819–002; ER05–820–002; ER05–48–002; ER04–831–004; ER03–36–006; ER02–1367–004; ER03–446–004; ER03–341–004; ER03–342–004; ER02–1959–004; ER02–2227–006; ER06–441–001; ER02–600–007; ER99–1983–005; ER01–2688–009; ER02–2229–005; ER02–1257–004; ER03–24–005; ER04–1221–001; ER05–67–002; ER01–480–005; ER05–68–002; ER04–1081–003; ER03–838–005; ER03–49–003; ER99–970–005; ER03–1288–003; ER07–1335–003; ER01–2887–006; ER04–1100–003; ER02–1319–005; ER06–754–003; ER06–755–002; ER06–749–002; ER06–751–003; ER06–753–002; ER06–741–002; ER06–756–002; ER06–750–002; ER06–742–002; ER06–752–002.

Applicants: Auburndale Peaker Energy Center, LLC; Bethpage Energy Center 3, LLC; Blue Spruce Energy Center, LLC; Broad River Energy, LLC; Calpine California Equipment Finance Company, LLC; Calpine Construction Finance Company, LP; Calpine Energy Management, LP; Calpine Energy Services, LP; CES Marketing V, LLC; CES Marketing VI, LP; Calpine Merchant Services Company, Inc.; CES Marketing IX, LLC; CES Marketing X, LLC; Calpine Bethpage 3, LLC; Calpine Newark, LLC; Calpine Northbrook Energy Marketing, LLC; Calpine Oneta Power, LP; Calpine Philadelphia, Inc.; Calpine Power America—OR, LLC; Calpine Power America—CA, LLC; CPN Bethpage 3rd Turbine, Inc.; Creed Energy Center, LLC; Decatur Energy Center, LLC; Delta Energy Center, LLC; Geyers Power Company, LLC; Gilroy Energy Center, LLC; Goose Haven Energy Center, LLC; Hermiston Power Partnership; Los Esteros Critical Energy Facility, LLC; Mankato Energy Center, LLC; Metcalf Energy Center, LLC; Mobile Energy, LLC; Pastoria Energy Center, LLC; PCF2, LLC; Power Contract Financing, LLC; Riverside Energy Center, LLC; RockGen Energy, LLC; Rocky Mountain Energy Center, LLC; Santa Rosa Energy Center, LLC; South Point Energy Center, LLC; Zion Energy LLC; Auburndale Power Partners, LP; Calpine Gilroy Cogen, LP; Carville Energy, LLC; Columbia Energy, LLC; CPN Pryor Funding Corporation; KIAC Partners; Los Medanos Energy Center, LLC; Morgan Energy Center, LLC; Nissequogue Cogen Partners; Pine Bluff Energy, LLC.

Description: Auburndale Peaker Energy Center, LLC *et al* submits a joint notification of changes in status.

Filed Date: 01/31/2008.

Accession Number: 20080214–0050.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER03–1331–003; ER99–1722–005.

Applicants: Williams Power Company, Inc.

Description: Notice of Change in Status of Williams Gas Marketing, Inc.

Filed Date: 02/14/2008.

Accession Number: 20080214–5047.

Comment Date: 5 p.m. Eastern Time on Thursday, March 06, 2008.

Docket Numbers: ER08–67–001.

Applicants: Ameren Services Company.

Description: Union Electric Company submits a report concerning refunds provided to the City of Farmington, Missouri.

Filed Date: 01/28/2008.

Accession Number: 20080130–0077.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 19, 2008.

Docket Numbers: ER07–169–002.
Applicants: Ameren Energy Marketing Company.
Description: Refund Report of Ameren Energy Marketing Company.
Filed Date: 02/14/2008.
Accession Number: 20080214–5036.
Comment Date: 5 p.m. Eastern Time on Thursday, March 06, 2008.

Docket Numbers: ER08–92–001.
Applicants: Virginia Electric and Power Company.
Description: Virginia Electric and Power Company requests an extension of time to provide responses to Questions 1 and 2 of the FERC Staff's 12/19/07 deficiency letter until 2/29/08.
Filed Date: 02/12/2008.
Accession Number: 20080214–0057.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–116–000.
Applicants: Avista Corporation.
Description: Withdrawal of Filing of Avista Corporation.
Filed Date: 02/12/2008.
Accession Number: 20080211–5113.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–124–001.
Applicants: Dynegy Oakland, LLC.
Description: Dynegy Oakland, LLC submits a request for an Annual Fee In Lieu of a Return to be included in the calculation of the Annual Fixed Revenue Requirement for Contract Year 2008.
Filed Date: 02/13/2008.
Accession Number: 20080214–0020.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 05, 2008.

Docket Numbers: ER08–127–000.
Applicants: Avista Corporation.
Description: Withdrawal of Filing of Avista Corporation.
Filed Date: 02/12/2008.
Accession Number: 20080211–5112.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–234–001.
Applicants: EWO Marketing, LP.
Description: EWO Marketing, LP submits compliance filing.
Filed Date: 02/12/2008.
Accession Number: 20080213–0087.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–553–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits a revised rate sheet to the Amended and Restated Mandalay Generating Station Radial Lines Agreement with Reliant Energy Mandalay Inc.
Filed Date: 02/12/2008.
Accession Number: 20080213–0083.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–554–000.
Applicants: Allegheny Power.
Description: Allegheny Power requests acceptance of the revisions to its FERC Electric Tariff, Second Revised Volume 6 to go into effect 3/14/08.
Filed Date: 02/12/2008.
Accession Number: 20080213–0084.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–555–000.
Applicants: ISO New England Inc.
Description: ISO New England, Inc submits its Capital Projects Report and schedule of the unamortized costs of the ISO's funded capital expenditures for the quarter ending 12/31/07.
Filed Date: 02/12/2008.
Accession Number: 20080213–0085.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–556–000; ER06–615–020.
Applicants: California Independent System Operator Corp.
Description: California Independent System Operator Corporation submits proposed amendments to the approved MRTU Tariff to implement an Interim Capacity Procurement Mechanism.
Filed Date: 02/08/2008.
Accession Number: 20080213–0088.
Comment Date: 5 p.m. Eastern Time on Friday, February 29, 2008.

Docket Numbers: ER08–557–000.
Applicants: Xcel Energy Services, Inc.
Description: Public Service Company of Colorado submits Notice of Cancellation for 39 legacy point to point transmission service agreements etc.
Filed Date: 02/13/2008.
Accession Number: 20080214–0018.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 05, 2008.

Docket Numbers: ER08–558–000.
Applicants: WSPP Inc.
Description: WSPP, Inc submits a request to amend the WSPP Agreement to include Entergy Texas Inc *et al.*
Filed Date: 02/13/2008.
Accession Number: 20080214–0019.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 05, 2008.

Docket Numbers: ER08–560–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc submits proposed Attachment BB to its Open Access Transmission Tariff to incorporate a New York State Gas-Electric Coordination Protocal in is tariff sheets.
Filed Date: 01/31/2008.
Accession Number: 20080214–0021.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3434 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

February 5, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–40–000.

Applicants: Puget Energy, Inc.; Puget Holdings LLC; Macquarie Infrastructure Partners; Macquarie-FSS Infrastructure Trust; Macquarie Capital Group Limited; Canada Pension Plan Investment Board; British Columbia Investment Management C; Alberta Investment Management and Their

Description: Joint Application of Puget Energy, Inc and Puget Holdings, LLC et al. for Authorization of Merger and Request for Blanket Approval under Section 203 of the Federal Power Act.

Filed Date: 01/29/2008.

Accession Number: 20080201–0133.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 19, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER95–1528–018; ER96–1858–023; ER01–2659–012; ER02–2199–010; ER03–54–010; ER03–56–010; ER96–1088–045; ER03–674–012; ER99–1936–011; ER01–1114–011; ER97–2758–018; ER05–89–011; ER05–453–003.

Applicants: Wisconsin Public Service Corporation; WPS Energy Services, Inc., WPS POWER DEVELOPMENT, LLC; Combined Locks Energy Center, LLC; WPS Empire State, Inc.; WPS Beaver Falls Generation, LLC; WPS Syracuse Generation, LLC; MID-AMERICAN POWER, LLC; Quest Energy, LLC; WPS Canada Generation, Inc.; WPS New England Generation, Inc.; WPS Westwood Generation, LLC; Advantage Energy, Inc.; Upper Peninsula Power Company; Wisconsin River Power Company.

Description: Integrys Energy Group, Inc. submits a notice of change in status for market-base rate authority.

Filed Date: 01/31/2008.

Accession Number: 20080205–0203.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER00–1952–005; ER04–1208–003; ER03–802–005; ER01–1784–008; ER99–1248–007; ER03–222–007.

Applicants: Black Hills Colorado, LLC; Black Hills Power, Inc.; Black Hills Wyoming, Inc; Fountain Valley Power, L.L.C.; Harbor Cogeneration Company, LLC; Las Vegas Cogeneration II, LLC.

Description: Black Hills Utilities submit notification of non-material change in status and market-based rate tariff revisions.

Filed Date: 01/30/2008.

Accession Number: 20080201–0121.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 20, 2008.

Docket Numbers: ER00–3614–007; ER06–1351–002.

Applicants: BP Energy Company; BP West Coast Products LLC.

Description: BP Energy Co and BP West Coast Products LLC submits a change in status report and revisions to the market-based rate tariff.

Filed Date: 01/30/2008.

Accession Number: 20080201–0120.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 20, 2008.

Docket Numbers: ER06–95–001.

Applicants: Pacific Gas and Electric Company.

Description: Compliance Refund Report (Compliance Only) of Pacific Gas & Electric Company.

Filed Date: 02/04/2008.

Accession Number: 20080204–5038.

Comment Date: 5 p.m. Eastern Time on Monday, February 25, 2008.

Docket Numbers: ER06–1014–005.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits their Price Validation Informational Report which details corrections made for based marginal prices from the period 7/1/07 through 12/31/07.

Filed Date: 01/31/2008.

Accession Number: 20080204–0105.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER07–1285–003.

Applicants: Niagara Mohawk Power Corporation.

Description: Niagara Mohawk Power Corp submits Service Agreement 1149 with a corrected rate schedule designation.

Filed Date: 01/31/2008.

Accession Number: 20080204–0108.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER07–1399–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection LLC notifies FERC of the effective dates of two executed interconnection service agreements with Connective Delmarva Generation, Inc et al.

Filed Date: 01/31/2008.

Accession Number: 20080201–0124.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–331–002.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits a revised executed Service Agreement for Network Integration Transmission Service with American Electric Power Service Corp et al.

Filed Date: 01/31/2008.

Accession Number: 20080204–0106.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–333–001.

Applicants: Las Vegas Cogeneration LP.

Description: Las Vegas Cogeneration Limited Partnership submits supplements to the 12/14/07 application.

Filed Date: 01/30/2008.

Accession Number: 20080201–0123.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 20, 2008.

Docket Numbers: ER08–402–001.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Co submits an amendment correcting the 12/31/07 filing of a change in rates for the Transmission Revenue Balancing Account Adjustment and on 2/1/08 submits three attachments to this filing.

Filed Date: 01/31/2008; 02/1/2008.

Accession Number: 20080204–0109; 20080205–0193.

Comment Date: 5 p.m. Eastern Time on Monday, February 11, 2008.

Docket Numbers: ER08–505–000.

Applicants: Xcel Energy Services Inc.

Description: Northern States Power Co submits a Notice of Termination of the Transmission Capacity and Planning Agreement between Northern States Power Co and the City of Windom, MN.

Filed Date: 01/31/2008.

Accession Number: 20080201–0125.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–506–000.

Applicants: SOUTHERN COMPANY SERVICES.

Description: Southern Companies submit an unexecuted Network Integration Service Agreement between Florida Public Utilities Co and Southern Company Services, Inc.

Filed Date: 01/31/2008.

Accession Number: 20080201–0122.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–507–000.

Applicants: Virginia Electric and Power Company.

Description: Virginia Electric and Power Company & Dominion Virginia Power submits notice of cancellation of Service Agreement 178 to FERC Electric Tariff, Second Revised Volume 4, to become effective 12/31/02.

Filed Date: 01/31/2008.
Accession Number: 20080204–0123.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–508–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool Inc. submits an executed service agreement for Firm Point to Point Transmission Service with Kansas City Power and Light Company.
Filed Date: 01/31/2008.
Accession Number: 20080204–0122.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–509–000.
Applicants: Northeast Utilities Service Company.
Description: Northeast Utilities Service Company submits Transmission and Ancillary Services Wholesale Revenue Allocation Agreement with the Connecticut Light and Power Company et al.
Filed Date: 01/31/2008.
Accession Number: 20080204–0121.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–510–000.
Applicants: Xcel Energy Services Inc.
Description: Northern States Power Company et al. submits Notices of Cancellation for 109 legacy point-to-point transmission service agreements, to become effective 3/31/08.
Filed Date: 01/31/2008.
Accession Number: 20080204–0120.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–511–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool Inc submits an executed Service Agreement for Network Integration Service with Hope Water and Light Service.
Filed Date: 01/31/2008.
Accession Number: 20080204–0119.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–512–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an executed Service Agreement for Network Integration Transmission Services with the City of Bentonville, AR etc.
Filed Date: 01/31/2008.
Accession Number: 20080204–0118.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–513–000.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits proposed revisions to Attachment V of their Open Access Transmission Tariff, FERC Electric Tariff, Third Revised Volume 3.
Filed Date: 01/31/2008.
Accession Number: 20080204–0117.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–514–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company et al. submits revisions to Electric Rate Schedule FERC 12 and Rate Schedule FERC 68.
Filed Date: 01/31/2008.
Accession Number: 20080204–0116.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–515–000.
Applicants: Idaho Power Company.
Description: Idaho Power Co submits an executed Large Generator Interconnection Agreement with City of Seattle.
Filed Date: 01/31/2008.
Accession Number: 20080204–0113.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–516–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits revisions to the Reliability Pricing Model of its Open Access Transmission Tariff.
Filed Date: 01/31/2008.
Accession Number: 20080204–0114.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–517–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co submits revised rate sheets to the Transmission Substation Facilities Agreement.
Filed Date: 01/31/2008.
Accession Number: 20080204–0112.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–518–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co submits revisions to their Transmission Owner Tariff, FERC Electric Tariff, Second Revised Volume 6, to be effective 4/1/08.
Filed Date: 01/31/2008.
Accession Number: 20080204–0124.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–520–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits revisions to the Credit Policy Attachment Q of their Open-Access Transmission Tariff, FERC Electric Tariff, Sixth Revised Volume 1, to become effective 4/1/08.
Filed Date: 01/31/2008.
Accession Number: 20080204–0111.
Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Docket Numbers: ER08–521–000.
Applicants: New England Power Pool.
Description: The New England Power Pool Participants Committee submits a transmittal letter along with counterpart signature pages of the New England Power Pool Agreement.
Filed Date: 02/01/2008.
Accession Number: 20080204–0110.
Comment Date: 5 p.m. Eastern Time on Friday, February 22, 2008.

Docket Numbers: ER08–522–000.
Applicants: The Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits a request to continue using existing revenue distribution methodology.
Filed Date: 02/01/2008.
Accession Number: 20080204–0147.
Comment Date: 5 p.m. Eastern Time on Friday, February 22, 2008.

Docket Numbers: ER08–523–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits Fourth Revised Sheet 22A et al. to FERC Electric Tariff, Sixth Revised Volume 1, effective 3/1/07.
Filed Date: 02/01/2008.
Accession Number: 20080204–0146.
Comment Date: 5 p.m. Eastern Time on Friday, February 22, 2008.

Docket Numbers: ER08–524–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits a revision to Exhibit F of the Amended and Restated AC Intertie Agreement, Substitute First Revised Rate Schedule FERC 368.
Filed Date: 02/01/2008.
Accession Number: 20080204–0145.
Comment Date: 5 p.m. Eastern Time on Friday, February 22, 2008.

Docket Numbers: ER08–525–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits an Extension Letter Agreement for Rate Schedule 35 for Use of Facilities Agreement with the Bureau of Reclamation.
Filed Date: 02/01/2008.
Accession Number: 20080204–0144.
Comment Date: 5 p.m. Eastern Time on Friday, February 22, 2008.

Docket Numbers: ER08–526–000.
Applicants: El Paso Electric Company.

Description: El Paso Electric Co submits proposed amendments to its Open Access Transmission Tariff etc.

Filed Date: 02/01/2008.

Accession Number: 20080204–0143.

Comment Date: 5 p.m. Eastern Time on Friday, February 22, 2008.

Docket Numbers: ER08–528–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection LLC submits First Amendment to the Settlement Agreement.

Filed Date: 01/31/2008.

Accession Number: 20080205–0209.

Comment Date: 5 p.m. Eastern Time on Thursday, February 21, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3506 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

February 19, 2008.

Regional Transmission Organizations	RT01–99–000, RT01–99–001, RT01–99–002 and RT01–99–003.
Bangor Hydro-Electric Company, *et al*	RT01–86–000, RT01–86–001 and RT01–86–002.
New York Independent System Operator, Inc., *et al*	RT01–95–000, RT01–95–001 and RT01–95–002.
PJM Interconnection, L.L.C., *et al*	RT01–2–000, RT01–2–001, RT01–2–002 and RT01–2–003.
PJM Interconnection, L.L.C	RT01–98–000.
ISO New England, Inc.	
New York Independent System Operator, Inc	RT02–3–000.

Take notice that PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England, Inc. have posted on their Internet Web sites information updating their progress on the resolution of RTO seams.

Any person desiring to file comments on this information 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). All such comments should be filed on or before the comment date. 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: March 11, 2008.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3435 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12632–000]

East Texas Electric Cooperative, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Alternative Licensing Procedures

February 19, 2008.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Alternative Licensing Procedures.

b. *Project No.:* 12632–000.

c. *Dated Filed:* December 21, 2007.

d. *Submitted by:* East Texas Electric Cooperative, Inc. (Cooperative).

e. *Name of Project:* Lake Livingston Hydroelectric Project.

f. *Location:* On the Trinity River, in San Jacinto, Polk, Trinity, and Walker Counties, Texas. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Edd Hargett, East Texas Electric Cooperative, Inc., 2905 Westward Drive, P.O. Box 631623, Nacogdoches, TX 75963; (936) 560–9532; e-mail—*eddh@gtpower.com.*

i. *FERC Contact:* Sarah Florentino at (202) 502–6863; or e-mail at *sarah.florentino@ferc.gov.*

j. The Cooperative filed its request to use the Alternative Licensing Procedures on December 21, 2007. The Cooperative provided public notice of its request on December 21, 2007. In a letter dated February 19, 2008, the Director of the Office of Energy Projects approved the Cooperative's request to use the Alternative Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Texas 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. With this notice, we are designating the Cooperative as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 106 of the National Historic Preservation Act.

m. The Cooperative 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.

n. 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 following address: Sam Houston Electric Cooperative, 1157 East Church Street, Livingston, Texas 77351; (936) 327–5711.

o. Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3436 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–61–000, ER08–61–001]

ISO New England Inc.; Notice of Technical Conference

February 15, 2008.

Take notice that Commission staff will convene a technical conference in the above-referenced proceeding on Wednesday, March 5, 2008 at 9 a.m. (EDT) in a room to be designated at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All interested persons are invited to attend and registration is not required; however, active participation will be limited to those parties who have previously requested to intervene in this proceeding.

The Commission's January 25, 2008 order [1] in this proceeding directed its staff to hold a technical conference to address issues raised by ISO New England Inc. (ISO–NE) in its October 16, 2007 filing and its deficiency response filed on November 28, 2007. Specifically, the Commission seeks to determine whether further detail should be added to ISO–NE's tariff to capture its proposal and its current practice of using Net Commitment Period Compensation (NCPC) to resolve differences in clearing prices across interfaces. As part of its presentation, ISO–NE is directed to discuss whether removing congestion costs from the NCPC uplift mechanism and incorporating these costs in the Locational Marginal Price at the External Node, as the Tariff appears to require, would reduce or eliminate the opportunity for market manipulation that is the impetus for the October 16, 2007 filing.

Any parties that plan to participate in this technical conference should contact John M. White at (202) 502–6867 no later than February 28, 2008.

Commission staff has arranged for telephone conferencing should any party wish to listen to the proceeding remotely. Any parties that plan to attend by phone should contact John M. White by e-mail at *johnm.white@ferc.gov* no later than February 28, 2008 to request the call-in instructions.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Morris Margolis, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8611, *Morris.margolis@ferc.gov*.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3502 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

[1] *ISO New England Inc.*, 122 FERC ¶ 61,057 (2008).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR05–16–001]

Enstor Grama Ridge Storage and Transportation LLC; Notice of Out of Time Informational Filing

February 15, 2008.

Take notice that on January 23, 2008, Enstor Grama Ridge Storage and Transportation LLC (Enstor Grama) filed out of time to notify the Commission of a change in its market power status pursuant to Ordering Paragraph (A) of the December 21, 2005, Commission Order.[1] The December 21 Order granted Enstor Grama market-based rate authority for firm and interruptible storage services performed under Section 311 of the Natural Gas Policy Act and required the company to notify the Commission of changes and/or acquisitions that affect its market power status.

Enstor Grama explains that during its preparation of the required notification of an affiliate's acquisition of Freebird Gas Storage, LLC in Lamar County, Alabama, Enstor Grama realized it had not timely reported the increased storage capacity at the Grama Ridge Facilities as required by the Commission. Enstor Grama's instant filing states that the Grama Ridge Facility's working gas capacity has increased from 4.5 Bcf to 7.7 Bcf. The instant filing also includes a revised market power analysis.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

[1] Grama Ridge Storage and Transportation, LLC, 113 FERC 61,301 (2005).

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 February 21, 2008.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3498 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR08–8–000]

White Cliffs Pipeline, L.L.C.; Notice of Petition for Declaratory Order

February 19, 2008.

Take notice that on February 13, 2008, White Cliffs Pipeline, L.L.C. (White Cliffs) tendered for filing a petition to the Commission to issue a declaratory order approving a proposed tariff structure and methodology for establishing cost-based initial rates for White Cliffs' planned pipeline system, which will transport D–J Basin quality crude oil from the Wattenberg Field in northeastern Colorado to the Cushing Hub in Cushing, Oklahoma.

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 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 4, 2008.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3442 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–61–000; ER08–61–001]

ISO New England Inc.; Notice of Technical Conference

February 15, 2008.

Take notice that Commission staff will convene a technical conference in the above-referenced proceeding on Wednesday, March 5, 2008 at 9 a.m. (EDT) in a room to be designated at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All interested persons are invited to attend and registration is not required; however, active participation will be limited to those parties who have previously requested to intervene in this proceeding.

The Commission's January 25, 2008 order [1] in this proceeding directed its staff to hold a technical conference to address issues raised by ISO New England Inc. (ISO–NE) in its October 16, 2007 filing and its deficiency response filed on November 28, 2007. Specifically, the Commission seeks to determine whether further detail should be added to ISO–NE's tariff to capture its proposal and its current practice of using Net Commitment Period Compensation (NCPC) to resolve differences in clearing prices across interfaces. As part of its presentation, ISO–NE is directed to discuss whether removing congestion costs from the NCPC uplift mechanism and incorporating these costs in the Locational Marginal Price at the External Node, as the Tariff appears to require, would reduce or eliminate the opportunity for market manipulation that is the impetus for the October 16, 2007 filing.

Any parties that plan to participate in this technical conference should contact John M. White at (202) 502–6867 no later than February 28, 2008.

Commission staff has arranged for telephone conferencing should any party wish to listen to the proceeding remotely. Any parties that plan to attend by phone should contact John M. White by e-mail at *johnm.white@ferc.gov* no later than February 28, 2008 to request the call-in instructions.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Morris Margolis, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8611, *Morris.margolis@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E8–3357 Filed 2–22–08; 8:45 am]

BILLING CODE 6717–01–P

[1] *ISO New England Inc.,* 122 FERC ¶ 61,057 (2008).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2008–0133; FRL–8533–4]

Office of Environmental Information; Announcement of Availability and Comment Period for Revised Enforcement and Compliance and Tribal Identifier Data Standards

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability & request for comment.

SUMMARY: Notice of availability for a 30 day review and comment period is hereby given for two revised data standards—(1) *Enforcement and Compliance Data Standard and (2)Tribal Identifier Data Standard.* The Enforcement and Compliance Data Standard identifies and defines the major areas of enforcement and compliance information that could be used for the exchange of data among environmental agencies and other entities. The purpose of the standard is to provide a common lexicon, so that information about functionally similar activities and/or instruments can be stored.

The Tribal Identifier Data Standard specifies the set of tribal names and codes necessary to constitute consistent and unambiguous identification of federally-recognized American Indian and Alaska Native entities. The Tribal Identifier Standard adopted the Bureau of Indian Affairs criteria of tribal entity identification (federally recognized tribes) and is not intended for the identification of geographic, demographic or economic tribal areas. The Bureau of Indian Affairs (BIA), is responsible for maintaining the official list of tribal names and codes according to their established criteria. This standard assists and supports the development of computerized applications that use tribal identifier information.

DATES: Comments must be received on or before March 29, 2008, 30 days after publication in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2008–0133, by one of the following methods:

- *http://www.regulations.gov* Follow the on-line instructions for submitting information.
- *E-mail: oei-docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Announcement of Availability and Comment Period for Revised Enforcement and Compliance and Tribal Identifier Data Standards, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Please include a total of four copies.

- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460.

Please include a total of four copies. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2008–0133. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless it includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or *ow-docket@epa.gov.* The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your information. If you send an e-mail directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the information that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at: *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials areavailable either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Dawn Banks, Collection Strategies Division, Office of Environmental Information, U.S. EPA, 1200 Pennsylvania Ave., NW., MC 2822T; Washington, DC 20460; phone (202) 566–0625; fax (202) 566–1639; e-mail: *Banks-Waller.Dawn@epa.gov.*

SUPPLEMENTARY INFORMATION: Standards are intended for use in environmental data exchanges among States, Tribal entities and U.S. EPA. They are not meant to dictate or limit data an agency chooses to collect for its own internal purposes. Adoption of a data standard should not be interpreted to mean that revisions to databases or information systems are required. What the adoption does mean is that formats for sharing data with Exchange Network (EN) partners will change because the Exchange Network has adopted Shared Schema Components (SSCs) based on the data standards. The SSCs are available on the Exchange Network web site at: *http://www.exchangenetwork.net.*

The revised data standards are available through the Docket system as indicated above and at *http://www.exchangenetwork.net/standards.*

Dated: February 20, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–3497 Filed 2–22–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

February 14, 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 (PRA) 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: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 25, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, or an e-mail 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 on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the 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 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1039.

Title: Nationwide Programmatic Agreement Regarding the section 106 National Historic Preservation Act (NHPA)—Review Process, WT Docket No. 03–128.

Form Nos.: FCC Forms 620 and 621.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 12,000 respondents; 12,000 responses.

Estimated Time Per Response: 5–10 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 123,888 hours.

Total Annual Cost: $9,253,296.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The Commission will submit this information collection to the OMB after this 60 day comment period as a revision to obtain the full three-year clearance from them. There is no change to the estimated number of respondents/responses, average burden hours and/or annual costs.

FCC Form 620, New Tower (NT) Submission Packet is to be completed by or on behalf of applicants to construct new antenna support structures by or for the use of licensees of the FCC. The form is to be submitted to the State Historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, and the Commission before any construction or other installation activities begins on the site. Failure to provide the form and complete the review process under section 106 of the NHPA prior to beginning construction may violate section 110(k) of the NHPA and the Commission's rules.

FCC Form 621, Collocation (CO) Submission Packet is to be completed by or on behalf of applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the FCC. The form is to be submitted to the SHPO or to the THPO, as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under section 106 of the NHPA prior to the beginning construction or other installation activities may violate section 110(k) of the NHPA and the Commission's rules.

The Commission revised FCC Form 620 to reduce the number of attachments and added the following to the form: Consultant FCC Registration Number (FRN); TCNS Notification Number; Site Name of Structure; Tribal/NHO Involvement; Historic Properties; Local Government Involvement; Other Consulting Parties and Designation of SHPO/THPO.

The Commission revised FCC Form 621 to reduce the number of attachments and added the following to the form: Consultant FCC Registration Number (FRN); TCNS Notification Number; Secondary TCNS Notification Number; Site Name of Structure; Tribal/NHO Involvement; Historic Properties; Local Government Involvement; Other Consulting Parties; and Designation of SHPO/THPO.

This data is used by the FCC staff, SHPO, THPO and the Advisory Council of Historic Preservation (ACHP) to take such action as may be necessary as to ascertain whether a proposed action may affect historic properties that are listed or eligible for listing in the National Register as directed by section 106 of the NHPA and the Commission's rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–3345 Filed 2–22–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

February 13, 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 (PRA) of 1995, 44 U.S.C. sections 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: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 26, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via Internet at: *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, or an e-mail to *PRA@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the 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 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0004.

Title: Sections 1.1307 and 1.1311, Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, Second Memorandum Opinion and Order, ET Docket No. 93–62, FCC 97–303.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 376,253 respondents; 376,253 responses.

Estimated Time per Response: .44 hours (average).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection are contained in sections 4, 302, 303 and 307 of the Communications Act of 1934, as amended; 47 U.S.C. 154, 302, 303 and 307.

Total Annual Burden: 163,902 hours.

Total Annual Cost: $28,691,703.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: There is minimal exemption from the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4) and FCC rules 47 CFR 0.459, that is granted for trade secrets, which may be submitted to the Commission as part of the documentation of test results. No other assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this information collection (IC) to the OMB as an extension (no change in the reporting and/or third party disclosure requirements) during this comment period to obtain the full three-year clearance from them. Since the last submission to OMB, the Commission is reporting a +249,703 increase in respondents/responses; −92,178 hourly burden reduction; and a +$27,498,703 increase in annual costs.

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to evaluate the effects of their actions on human environmental quality. To comply with NEPA, the Commission adopted rules in 1997, 47 CFR 1.1307, which revised Radio Frequency (RF) exposure guidelines for FCC-regulated facilities. The guidelines reflect more recent scientific studies of FR electromagnetic fields and their biological effects, and are designed to ensure that the public and workers are adequately protected from exposure to potentially harmful FR electromagnetic fields.

The FCC staff uses the information required by section 1.1307 to determine whether the environmental evaluation is sufficiently complete and in compliance with the FCC rules to be acceptable for filing.

This information is needed because the Commission requires applicants to perform an environmental evaluation with respect to radio frequency electromagnetic fields. Applicants are required to consider contributions from other transmitters within the vicinity of their facility in order to assess the cumulative exposure. Accordingly, to correctly determine compliance with the Commission's exposure limits, an applicant must locate, determine ownership, and gather technical information for all contributing transmitters.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–3523 Filed 2–22–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Approved by the Office of Management and Budget

February 19, 2008.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. sections 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid OMB control number. Comments concerning the accuracy of the burden estimate(s) and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: For additional information contact Carol Simpson either by e-mail address at *carol.simpson@fcc.gov* or telephone at 202 418–2391.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0957.

OMB Approval Date: December 31, 2007.

Expiration Date: December 31, 2010.

Title: Requests for waiver of deadline on location-capable handset deployment (Fourth Memorandum Opinion and Order in CC Docket No. 94–102).

Form No.: Not applicable.

Estimated Annual Burden: 2500 responses; 3 hours per response; 7500 hours total per year.

Obligation to Respond: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: The burden contained in the MO&O

does not address any matters of a sensitive nature.

Needs and Uses: This decision revised and made adjustments to the deployment schedule that must be followed by wireless carriers that chose to implement E911 service using a handset-based technology. The Commission also deferred the date for initial distribution of Automatic Location Identification (ALI)-capable handsets by seven months; adjusting the timetable for carriers to meet certain interim benchmarks for activating new ALI-capable handsets; deferred the date by which a carrier must achieve full penetration of ALI-capable handsets by one year; modified the manner in which the Commission defined full penetration; eliminated the separate handset phase-in schedule triggered by a request from a Public Safety Answering Point (PSAP), and addressed several other issues regarding implementation of enhanced 911 Phase II.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–3537 Filed 2–22–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Advisory Committee on Diversity for Communications in the Digital Age

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Advisory Committee on Diversity for Communications in the Digital Age (''Diversity Committee'') will hold a meeting on March 10, 2008, at 10 a.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street, SW., Washington, DC 20554. Reports from the subcommittees will be presented. Barbara Kreisman is the Diversity Committee's Designated Federal Officer.

DATES: March 10, 2008.

ADDRESSES: Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barbara Kreisman, Designated Federal Officer of the FCC's Diversity Committee (202) 418–1600 or e-mail: *Barbara.kreisman@fcc.gov.*

SUPPLEMENTARY INFORMATION: At this meeting, the Diversity Committee will discuss and consider possible areas in which to develop recommendations that will further enhance the ability of minorities and women to participate in the telecommunications and related industries.

Members of the general public may attend the meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to seating availability. The public may submit written comments before the meeting to: Barbara Kreisman, the FCC's Designated Federal Officer for the Diversity Committee by e-mail: *Barbara.Kreisman@fcc.gov* or U.S. Postal Service Mail (Barbara Kreisman, Federal Communications Commission, Room 2–A665, 445 12th Street, SW., Washington, DC 20554).

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way we can contact you if we need more information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Additional information regarding the Diversity Committee can be found at: *http://www.fcc.gov/DiversityFAC.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc.08–839 Filed 2–22–08 8:45 am]

BILLING CODE 6712–07–M

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 08–20; DA 08–361]

William F. Crowell, Application To Renew License for Amateur Radio Service Station W6WBJ

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission initiates a hearing proceeding before a Commission Administrative Law Judge to determine whether an application to renew the license for Amateur Radio Service Station W6WBJ filed by William F. Crowell should be granted.

DATES: The document was mailed to the party on February 13, 2007.

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

FOR FURTHER INFORMATION CONTACT: Gary Schonman, Enforcement Bureau, at *Gary.Schonman@fcc.gov* or (202) 418–1795 or TTY (202) 418–1152.

SUPPLEMENTARY INFORMATION: This is a summary of the *Hearing Designation Order* in WT Docket No. 08–20, DA 08–361, adopted by the Commission's Wireless Telecommunications Bureau on February 12, 2007, and released on February 12, 2007. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis of the Order

1. In this *Hearing Designation Order,* the Commission commences a hearing proceeding before a Commission Administrative Law Judge to determine whether the above-captioned application filed by William F. Crowell for renewal of his license for Amateur Radio Station W6WBJ should be granted. As discussed below, the record before us indicates that Castle has apparently willfully and repeatedly engaged in unlawful Commission-related activities, including, but not limited to, intentionally causing interference; transmitting music and one-way communications; and using slanderous, harassing, and indecent language on amateur frequencies. Based on the information before us, we believe that Crowell's apparent continuing course of misconduct raises a substantial and material question of fact as to whether he possesses the requisite character qualifications to be and remain a Commission licensee. Accordingly, we hereby designate his application for hearing.

2. Pursuant to sections 4(i) and 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and 309(e),

the captioned application is designated for hearing in a proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent *Order,* upon the following issues:

(a) To determine whether William F. Crowell willfully and/or repeatedly violated Section 333 of the Communications Act of 1934, as amended, and § 97.101(d) of the Commission's rules, by intentionally interfering with radio communications;

(b) To determine whether William F. Crowell willfully and/or repeatedly violated § 97.113(b) of the Commission's rules by transmitting one-way communications on amateur frequencies;

(c) To determine whether William F. Crowell willfully and/or repeatedly violated § 97.113(a)(4) of the Commission's rules by transmitting indecent language;

(d) To determine whether William F. Crowell willfully and/or repeatedly violated § 97.113(a)(4) of the Commission's rules by transmitting music;

(e) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether William F. Crowell is qualified to be and remain a Commission licensee;

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the captioned application filed by William F. Crowell should be granted.

3. Pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and § 1.221(c) of the Commission's rules, 47 CFR 1.221(c), in order to avail himself of the opportunity to be heard, William F. Crowell, in person or by his attorney, shall file with the Commission, within twenty calendar days of the mailing of this *Hearing Designation Order* to him, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the issues specified herein.

4. Pursuant to § 1.221(c) of the Commission's rules, 47 CFR 1.221(c), if William F. Crowell fails to file a written appearance within the twenty-day period, or has not filed prior to the expiration of the twenty-day period, a petition to dismiss without prejudice, or a petition to accept, for good cause shown, a written appearance beyond the expiration of the twenty-day period, the Presiding Administrative Law Judge shall dismiss the captioned application with prejudice for failure to prosecute.

5. The Chief, Enforcement Bureau, shall be made a party to this proceeding without the need to file a written appearance.

6. Pursuant to sections 4(i) and 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and 309(e), the burden of proceeding with the introduction of evidence and the burden of proof with respect to all of the issues specified above shall be on William F. Crowell.

7. A copy of this *Hearing Designation Order* or a summary thereof shall be published in the **Federal Register**.

8. This action is taken under delegated authority pursuant to §§ 0.131 and 0.331 of the Commission's rules, 47 CFR 0.131, and 0.331.

Federal Communications Commission.

Scot Stone,

Deputy Chief, Mobility Division.

[FR Doc. E8–3346 Filed 2–22–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), an agency may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC is contemplating establishing a generic information collection to conduct occasional qualitative surveys in support of Alliance for Economic Inclusion (AEI) initiatives. The subject matter of the surveys would be determined by individual AEI regional area needs and areas of interest, but likely would include such topics as financial literacy education, asset building programs, retail banking services, and alternative financial services delivery channels. Survey respondents would typically include AEI coalition member financial institutions, but may also include non-AEI member financial institutions in regional areas served by AEIs. Depending on local needs, other organizations could also be surveyed as well.

DATES: Comments must be submitted on or before April 25, 2008.

ADDRESSES: Interested parties are invited to submit written comments by mail to Leneta Gregorie, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429; by FAX at (202) 898–8788; or by e-mail to *comments@fdic.gov.* All comments should refer to ''Alliance for Economic Inclusion (AEI) Occasional Qualitative Surveys.'' Copies of comments may also be submitted to the OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Interested members of the public may obtain additional information about the collection by contacting Leneta Gregorie at the address identified above or by calling 202–898–3719.

SUPPLEMENTARY INFORMATION:

Proposal to Seek OMB Approval for the Following New Collection of Information

Title: Alliance for Economic Inclusion (AEI) Occasional Qualitative Surveys.

OMB Number: New collection (3064–xxxx).

Frequency of Response: Occasional.

Affected Public: Primarily insured financial institutions in areas served by AEI coalitions, although other organizations could also be surveyed as well.

Estimated Number of Respondents: Up to 90 per collection.

Estimated time per response: Up to 1 hour per respondent.

Estimated Total Annual Burden: 90 respondents × 20 collections per year × 1 hour per response = 1,800 hours.

General Description of Collection

The AEI is a national initiative sponsored by the FDIC to help improve the economic well-being of low- and moderate-income individuals and families by improving their access to the U.S. banking system. To facilitate this effort, AEI has established broad-based coalitions of financial institutions, community- and faith-based organizations, state, and local governmental agencies, federal bank regulators, researchers, employers, and bank trade associations in various markets across the country to focus on the basic retail financial services needs of unbanked and underserved populations in their respective areas. Currently, there are nine AEI coalitions, one each focusing on: The ''Black Belt'' semi-rural area of Alabama; the greater Boston/Worcester area; the city of Chicago; the Austin/South Texas, Texas area; the Kansas City metropolitan area; the Louisiana and Mississippi Gulf

Coast areas; the Baltimore, Maryland area; the Wilmington, Delaware area; and the city of Los Angeles. However, additional coalition(s) may be formed in the future. Each regional AEI has formed working groups to identify barriers and opportunities and works independently to develop innovative products and marketing strategies to bring the unbanked and underserved into the financial mainstream. Such products and strategies might include low-cost deposit accounts, low- or no-cost check cashing, affordable remittance products, free tax preparation, individual development accounts, coaching or other counseling assistance, and financial education. The purpose of surveys submitted to OMB under this generic information collection would be in furtherance of the objectives of the AEI working groups. A sample survey, proposed for use by the Wilmington AEI coalition, appears in Appendix A.

Although the members of each AEI initiative, rather than the FDIC, will be primarily responsible for developing survey contents, the FDIC does facilitate AEI initiatives by providing support services. Therefore, any AEI surveys would be conducted by the FDIC using its own staff and resources.

Technology will be used to the extent it is cost effective and possible to electronically distribute survey instruments and collect survey data. In addition, the FDIC will ensure that AEI surveys are consistent with rules governing federally conducted or sponsored information collections, conform to privacy rules, and do not request any information of a sensitive nature. It is not the intent of the FDIC to publish survey findings. All data from the surveys are for the information and use of the sponsoring AEI coalition.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection 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 the information.

Appendix A—*Proposed Survey of Retail Bank Services in Wilmington*

1. Does your Bank offer in-house financial literacy education centrally, at your branches or provide funding to 3rd parties for this service?
   Yes __ No__
   If yes, please indicate if you offer multi-lingual education and locations:

2. Does your Bank offer banking products and services using multi-lingual marketing and promotional materials?
   a. ATM; Bank by Phone; Internet Banking; Teller Services; New Loan Accounts; New Deposit Accounts
   If yes, please indicate the languages and specific services you provide:

3. Does your bank offer bilingual banking literature and/or services?
   Yes __ No__
   If yes, please list available literature and language(s):

4. Does your bank offer free checking with no minimum account opening balance requirement?
   Yes __ No__
   If yes, please indicate any fees and/or requirements:

5. Does your bank offer other low cost deposit products?
   Yes __ No__
   If yes please describe the products:

6. Does your bank offer low cost money orders?
   Yes __ No__
   If yes, please indicate any fees and/or requirements:

7. Does your bank offer bill payment options at branches (such as payment of utility bills)?
   Yes __ No__
   If yes, please indicate any fees and/or requirements associated with this service:

8. Does your bank offer prepaid products?
   Yes __ No__
   If yes, please describe the products offered and indicate if there are associated fees:

9. Does your bank offer discounted first time home buyers mortgages either directly or through a 3rd party?
   Yes __ No__
   If yes, please describe the programs, including but not limited to any grants, waived fees, interest buy down, participation with local and state communities:

10. What type of secured loan and secured credit line products does your bank offer?

11. Does your bank participate in an Outreach Program?
    Yes __ No__
    If yes, please describe the program(s):

12. Does your bank offer international remittance services?
    Yes __ No__
    a) List any outgoing fees/incoming fees and/or requirements:

    (b) List any other specialized remittance services (such as ATM/debit-cards):

13. What form(s) of identification are required for new accounts under your Customer Identification Program?
    (a) List accepted form(s) of ID for U.S. persons:

    (b) List accepted form(s) of ID for non-U.S. persons:

    (c) How many forms of ID are required (indicate picture or non-picture)?

    (d) If applicable, please list any *non-*

documentary methods that are used to identify customers.

14. Does your bank accept consular cards for ID (such as the Mexican matricula consular)?
Yes __ No__
If yes, please specify which country(s) consular cards you accept:

15. Does your bank provide assistance with ITIN?
Yes __ No__
If yes, please describe any assistance that you provide (such as providing W7 forms):

16. Does your bank use an account or credit history check when opening up checking accounts?
Yes____ No____
If yes, please indicate which service you utilize:
CheckSystems:____
TeleCheck:____ Credit Bureau:____ Other:____

17. Does your bank participate in the Delaware EITC program?
If yes, what special products and/or services do you offer unbanked recipients of refunds under the program?

18. Please list any other services available at your bank that you feel may be applicable to this survey.

19. Please feel free to add any comments/suggestions concerning any challenges your bank has encountered when trying to serve the under-served customers such as immigrants (include suggestions for regulatory guidance).

Survey completed by:

Contact information:

Thank you very much for your assistance and cooperation. Please fax the completed form to: (Title and Name) at (Phone Number) or e-mail the completed form to (e-mail address)

Dated at Washington, DC, this 19th day of February, 2008.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–3377 Filed 2–22–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://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 March 21, 2008.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. FBHC Holding Company, to become a bank holding company by acquiring 100 percent of the voting shares of FlatIrons Bank Holding Company, and thereby acquire FlatIrons Bank, all of Boulder, Colorado.

Board of Governors of the Federal Reserve System, February 20, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–3458 Filed 2–22–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 051 0094]

Negotiated Data Solutions LLC; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Extension of deadline for submission of public comments.

SUMMARY: The Federal Trade Commission is extending the deadline for filing public comments in connection with the consent agreement in this matter, which settles alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition.

DATES: Public comments must be received on or before April 24, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Negotiated Data Solutions, File No. 051 0094,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 135–H (Annex D), 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security. Comments that do not contain any nonpublic information may instead be filed in electronic form by following the instructions on the web-based form at

[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).

http://secure.commentworks.com/ftc-NegotiatedDataSolutions. To ensure that the Commission considers an electronic comment, you must file it on that web-based form. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov.* 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.htm.*

FOR FURTHER INFORMATION CONTACT: Kent E. Cox (202) 326-2058, Bureau of Competition, Room NJ-6213, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On January 23, 2008, pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, the Commission gave notice that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, had been placed on the public record for a period of thirty (30) days, and published a Notice to that effect in the Federal Register. *See* 73 Fed. Reg. 5,846 (Jan. 31, 2008). The Notice also designated February 22, 2008, as the deadline for filing public comments. A number of prospective commenters have now requested an extension of the public comment period, in order to ensure that they will be able to provide the Commission with the best information available. In light of the number and importance of the issues on which it has requested comment, the Commission has determined to extend the filing deadline until April 24, 2008.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. E8–3556 Filed 2–22–08: 8:45 am]

[BILLING CODE 6750–01–S]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0094]

Agency Information Collection Activities; Proposed Collection; Comment Request; Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's guidance for industry entitled ''Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations.''

DATES: Submit written or electronic comments on the collection of information by April 25, 2008.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations (OMB Control Number 0910–0562)—Extension

The Food Quality Protection Act of 1996 (FQPA), which amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (the act), established a new safety standard for pesticide residues in food, with an emphasis on protecting the health of infants and children. The Environmental Protection Agency (EPA) is responsible for regulating the use of pesticides (under FIFRA) and for establishing tolerances or exemptions from the requirement for tolerances for residues of pesticide chemicals in food commodities (under the act). EPA, in accordance with the FQPA, is in the process of reassessing the pesticide

tolerances and exemptions which were in effect when the FQPA was signed into law. When EPA determines that a pesticide's tolerance level does not meet the safety standard under section 408 of the act (21 U.S.C. 346a), the registration for the pesticide may be canceled under FIFRA for all or certain uses. In addition, the tolerances for that pesticide may be lowered or revoked for the corresponding food commodities. Under section 408(l)(2) of the act, when the registration for a pesticide is canceled or modified due to, in whole or in part, dietary risks to humans posed by residues of that pesticide chemical on food, the effective date for the revocation of such tolerance (or exemption in some cases) must be no later than 180 days after the date such cancellation becomes effective or 180 days after the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

When EPA takes such actions, food derived from a commodity that was lawfully treated with the pesticide may not have cleared the channels of trade by the time the revocation or new tolerance level takes effect. The food could be found by FDA, the agency that is responsible for monitoring pesticide residue levels and enforcing the pesticide tolerances in most foods (the U.S. Department of Agriculture (USDA) has responsibility for monitoring residue levels and enforcing pesticide tolerances in egg products and most meat and poultry products), to contain a residue of that pesticide that does not comply with the revoked or lowered tolerance. FDA would normally deem such food to be in violation of the law by virtue of it bearing an illegal pesticide residue. The food would be subject to FDA enforcement action as an ''adulterated'' food. However, the channels of trade provision of the act (section 408(l)(5) of the act) addresses the circumstances under which a food is not unsafe solely due to the presence of a residue from a pesticide chemical for which the tolerance has been revoked, suspended, or modified by EPA. The channels of trade provision states that food containing a residue of such a pesticide shall not be deemed ''adulterated'' by virtue of the residue, if the residue is within the former tolerance, and the responsible party can demonstrate to FDA's satisfaction that the residue is present as the result of an application of the pesticide at a time and in a manner which were lawful under FIFRA.

In the **Federal Register** of May 18, 2005 (70 FR 28544), FDA announced the availability of a guidance document entitled, ''Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations.'' The guidance represents the agency's current thinking on its planned enforcement approach to the channels of trade provision of the act and how that provision relates to FDA-regulated products with residues of pesticide chemicals for which tolerances have been revoked, suspended, or modified by EPA under dietary risk considerations. The guidance can be found at *http://www.cfsan.fda.gov/guidance.html*. FDA anticipates that food bearing lawfully applied residues of pesticide chemicals that are the subject of future EPA action to revoke, suspend, or modify their tolerances, will remain in the channels of trade after the applicable tolerance is revoked, suspended, or modified. If FDA encounters food bearing a residue of a pesticide chemical for which the tolerance has been revoked, suspended, or modified, it intends to address the situation in accordance with provisions of the guidance. In general, FDA anticipates that the party responsible for food found to contain pesticide chemical residues (within the former tolerance) after the tolerance for the pesticide chemical has been revoked, suspended, or modified will be able to demonstrate that such food was handled, e.g., packed or processed, during the acceptable timeframes cited in the guidance by providing appropriate documentation to the agency as discussed in the guidance document. FDA is not suggesting that firms maintain an inflexible set of documents where anything less or different would likely be considered unacceptable. Rather, the agency is leaving it to each firm's discretion to maintain appropriate documentation to demonstrate that the food was so handled during the acceptable timeframes.

Examples of documentation which FDA anticipates will serve this purpose consist of documentation associated with packing codes, batch records, and inventory records. These are types of documents that many food processors routinely generate as part of their basic food-production operations.

FDA is requesting the extension of OMB approval for the information collection provisions in the guidance.

Description of Respondents: The likely respondents to this collection of information are firms in the produce and food-processing industries that handle food products that may contain residues of pesticide chemicals after the tolerances for the pesticide chemicals have been revoked, suspended, or modified.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Activity	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Submission of documentation	1	1	1	3	3

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA expects the total number of pesticide tolerances that are revoked, suspended, or modified by EPA in the next 3 years to significantly decrease, as EPA concludes its review activity. Thus, the above estimates for respondents and numbers of responses in table 1 of this document are based on the submissions that the agency has received in the past 3 years and the expectation that the number of submissions will significantly decrease in the next 3 years. However, to avoid counting this burden as zero, FDA has estimated the burden at one respondent making one submission a year for a total of one annual submission.

The hours per response values were estimated as follows: First, we assumed that the information requested in this guidance is readily available to the submitter. We expect that the submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for submission to FDA. The submitter will almost always merely need to copy existing documentation. We believe that this effort should take no longer than 3 hours per submission.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

Activity	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
Develop documentation process	1	1	1	16	16

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

In determining the estimated annual recordkeeping burden, FDA estimated that at least 90 percent of firms maintain documentation, such as packing codes, batch records, and inventory records, as part of their basic food production or import operations. Therefore, the recordkeeping burden was calculated as the time required for the 10 percent of firms that may not be currently maintaining this documentation to develop and maintain documentation, such as batch records and inventory records. In previous information collection requests, this recordkeeping burden was estimated to be 16 hours. Although FDA estimates that only 1 out of 10 firms will not be currently maintaining the necessary documentation, to avoid counting the recordkeeping burden for the one submission per year as zero, FDA has retained its prior estimate of 16 hours for the recordkeeping burden.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

Dated: February 15, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3415 Filed 2–22–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–C–0098]

Combe, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Combe, Inc., has filed a petition proposing that the color additive regulations be amended to increase the permitted use level of bismuth citrate as a color additive in cosmetics intended for coloring hair on the scalp.

DATES: Submit written or electronic comments on the petitioner's environmental assessment by March 26, 2008.

ADDRESSES: Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Felicia M. Ellison, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1264.

SUPPLEMENTARY INFORMATION: Under section 721e(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e(d)(1)), notice is given that a color additive petition (CAP 8C0286) has been filed by Combe, Inc., c/o EAS Consulting Group, LLC, 1940 Duke St., suite 200, Alexandria, VA 22314. The petition proposes to amend the color additive regulations in § 73.2110 *Bismuth citrate* (21 CFR 73.2110) to increase the permitted use level of bismuth citrate as a color additive in cosmetics intended for coloring hair on the scalp.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Division of Dockets Management (see **ADDRESSES**) for public review and comment.

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. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

Dated: February 15, 2008.

Laura M. Tarantino,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. E8–3416 Filed 2–22–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0060] (formerly Docket No. 1998D–0021)

Guidance for Industry: Container and Closure System Integrity Testing in Lieu of Sterility Testing as a Component of the Stability Protocol for Sterile Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Container and Closure System Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products,'' dated February 2008. The guidance document provides recommendations to sponsors for using methods other than sterility testing to confirm the integrity of container and closure systems as part of stability testing for sterile biological products, human and veterinary drugs, and

medical devices. The guidance document does not apply to sterility testing methods for product sterility testing prior to release, as container and closure system integrity tests cannot demonstrate a product's initial sterility. The guidance announced in this notice finalizes the draft guidance entitled ''Container and Closure Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products,'' dated January 1998.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of theguidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448; or to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), 5600 Fishers Lane, Rockville, MD 20857; or to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855; or to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. The guidance may also be obtained by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the 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:

Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210,or

David Hussong, Center for Drug Evaluation and Research (HFD–805), Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1228,or

Geetha J. Jayan, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd, Rockville, MD 20850, 240–276–3747, or

Mai Huynh, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6963.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance document entitled ''Guidance for Industry: Container and Closure System Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products,'' dated February 2008. The guidance document provides information to sponsors who propose using alternative methods to sterility testing to confirm container and closure integrity for sterile biological products, human and veterinary drugs, and medical devices throughout a product's dating period. The guidance document is applicable only to stability testing, a means of confirming expiration dating. The alternatives described in the guidance document are not offered as a replacement for sterility testing prior to product release, as container and closure system integrity tests cannot demonstrate a product's initial sterility.

In the **Federal Register** of January 28, 1998 (63 FR 4272), FDA announced the availability of the draft guidance entitled ''Container and Closure Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products,'' dated January 1998. FDA received numerous comments on the draft guidance and those comments were considered as the guidance was finalized. Editorial changes were made to improve clarity. This guidance document was prepared jointly by CBER, CDER, CVM, and CDRH.

The guidance document is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance document represents the agency's current thinking on this topic. 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. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 211.166 have been approved under OMB control number 0910–0139; the collections of information in 21 CFR 314.70 have been approved under OMB control number 0910–0001; the collections of information in 21 CFR 514.8 have been approved under OMB control number 0910–0032; the collections of information in 21 CFR 601.12 have been approved under OMB control number 0910–0338; the collections of information in 21 CFR 809.10 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR 814.39 have been approved under OMB control number 0910–0231; and the collections of information in 21 CFR 820.75 have been approved under OMB control number 0910–0073.

III. Comments

Interested persons may, at any time, submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the guidance. 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. A copy of the guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cber/guidelines.htm*, or *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cdrh/guidance.html*, or *http://www.fda.gov/cvm/guidance/published.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 12, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3487 Filed 2–22–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA–2008–D–0108 (formerly Docket No. 2006D–0079)]

Guidance for Industry: Guide to Minimize Food Safety Hazards for Fresh-cut Fruits and Vegetables; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance document entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards of Fresh-cut Fruits and Vegetables'' (the fresh-cut guidance or guidance). Previously, FDA announced the availability of the fresh-cut guidance as a ''draft final'' document, pending approval by the Office of Management and Budget (OMB) of the information collection provisions in the guidance. FDA is publishing this notice to announce that the fresh-cut guidance is now final. The text of the guidance has not changed from the previously published draft final version. The fresh-cut guidance complements FDA's current good manufacturing practice (CGMP) requirements for foods by providing specific guidance on the processing of fresh-cut produce. The fresh-cut guidance and the CGMP regulations are intended to assist processors in minimizing microbial food safety hazards common to the processing of most fresh-cut fruits and vegetables sold to consumers and retail establishments in a ready-to-eat form.

DATES: Submit written or electronic comments on the guidance at any time.

ADDRESSES: Submit written comments on the 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*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document. Submit written requests for single copies of the guidance to the Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1700 or FAX: 301–436–2651. Send one self-addressed adhesive label to assist the Center in processing your request.

FOR FURTHER INFORMATION CONTACT: Rhoma Johnson, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2066 or FAX: 301–436–2651.

SUPPLEMENTARY INFORMATION:

I. Background

Fresh-cut fruits and vegetables are minimally processed fruits and vegetables that have been altered in form by peeling, slicing, chopping, shredding, coring, or trimming, with or without washing or other treatment, prior to being packaged for use by the consumer or a retail establishment. The methods by which produce is grown, harvested, and processed may contribute to its contamination with pathogens and, consequently, the role of the produce in transmitting foodborne illness. Factors such as the high degree of handling and mixing of the product, the release of cellular fluids during cutting or chopping, the high moisture content of the product, the absence of a step lethal to pathogens, and the potential for temperature abuse in the processing, storage, transport, and retail display all enhance the potential for pathogens to survive and grow in fresh-cut produce.

On March 6, 2006, FDA published in the **Federal Register** a notice entitled ''Draft Guidance for Industry: Guide to Minimize Food Safety Hazards of Fresh-Cut Fruits and Vegetables'' (71 FR 11209) (the March 2006 notice). FDA gave interested persons 60 days to comment on the draft guidance. The comment period closed on May 5, 2006. The draft guidance was revised based on public comments. The draft guidance contained information collection provisions subject to review by OMB under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). Under the PRA, Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, in the March 2006 notice (71 FR 11209), FDA gave interested persons 60 days to comment on the information collection provisions in the draft guidance. After providing the 60-day notice requesting public comment, section 3507 of the PRA (44 U.S.C. 3507) requires Federal agencies to submit the proposed collection to OMB for review and clearance. In compliance with 44 U.S.C. 3507, FDA submitted the proposed collection of information to OMB for review and clearance.

On March 13, 2007, FDA published in the **Federal Register** a notice announcing the availability of a ''Draft Final Guidance for Industry: Guide to Minimize Food Safety Hazards for Fresh-Cut Fruits and Vegetables'' (72 FR 11364). This document was issued as a ''draft final'' guidance pending OMB approval of the collection of information. FDA announced OMB's approval of the collection of information in a notice published on October 19, 2007 (72 FR 59295). With OMB approval, FDA is publishing this notice announcing that the fresh-cut guidance is final and providing an OMB control number (See section II of this document).

The fresh-cut guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The fresh-cut guidance is intended to assist processors in minimizing microbial food safety hazards common to the processing of most fresh-cut fruits and vegetables sold to consumers and retail establishments in a ready-to-eat form. This guidance represents FDA's current thinking on the microbiological hazards presented by most fresh-cut fruits and vegetables and the recommended control measures for such hazards in the processing of such produce. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You may use an alternative approach if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in this guidance was approved under OMB control number 0910–0609.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this guidance document at any time. 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. The guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance document at the following Web site: *http://www.cfsan.fda.gov/guidance.html*.

Dated: February 15, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3417 Filed 2–22–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: April 3, 2008.

Time: 8 a.m. to 6:45 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, 9S235, Bethesda, MD 20892.

Contact Person: Ira W. Levin, PhD, Chief, Section on Molecular Biophysics, Division of Intramural Research, National Institute of Diabetes and Digestive, and Kidney Diseases, NIH, Bethesda, MD 20892, 301–496–6844, *iwl@helix.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–815 Filed 2–22–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Non Nsaid Action in AD.

Date: March 17, 2008.

Time: 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Bethesda, MD 20770 (Telephone Conference Call).

Contact Person: Louise L. Hsu, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–7705, *hsul@exmur.nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Menopause Symptoms and Interventions.

Date: March 18, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Elaine Lewis, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–7707, *elainelewis@.nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Health Care Productivity.

Date: April 4, 2008.

Time: 1:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Bethesda, MD 20770 (Telephone Conference Call).

Contact Person: Wilbur C. Hadden, PhD, Health Scientist Administrator, National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, *haddenw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–816 Filed 2–22–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Criminal Justice Drug Abuse Treatment Study.

Date: March 10–11, 2008.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401, (301) 435–1389, *ms80x@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA–K Conflicts SEP A.

Date: March 11, 2008.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Kristen V. Huntley, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–435–1433, *huntleyk@mail.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA–K Conflicts SEP B.

Date: March 11, 2008.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Kristen V. Huntley, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–435–1433, *huntleyk@mail.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA–L Conflicts Meeting A.

Date: March 13, 2008.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1432.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA–L Conflicts Meeting B.

Date: March 13, 2008.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Contact Person: Meenaxi Hiremath, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6101 Executive Blvd., Suite 220, MSC 8401, Bethesda, MD 20892, 301–402–7964, *mh392g@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Program Project Review.

Date: March 14, 2008.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rita Liu, PhD, Associate Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 212, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–435–1388, *rliu@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–817 Filed 2–22–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Program Project—Pathways to Beta-Cell Proliferation.

Date: March 13, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Epidemiological Study in Urological Symptoms.

Date: March 18, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Chronic Kidney Disease Ancillary Studies.

Date: March 18, 2008.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara A. Woynarowska, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Multi-Disciplinary Approach to the Study of Chronic Pelvic Pain (MAPP) Research Network (U01).

Date: March 18–20, 2008.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Xiaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; A Search for Genes That Regulate Stem Cells.

Date: March 24, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, PhD, Scientific Review Administrator, Review

Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–819 Filed 2–22–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as potential material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine; Extramural Programs Subcommittee.

Date: May 12, 2008.

Closed: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine; Subcommittee on Outreach and Public Information.

Date: May 13, 2008.

Open: 7:30 a.m. to 8:45 a.m.

Agenda: Outreach Activities.

Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892, 301–496–6221, *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine.

Date: May 13–14, 2008.

Open: May 13, 2008, 9 a.m. to 4:30 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, Board Room 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: May 13, 2008, 4:30 p.m. to 5 p.m.

Agenda: To review and evalulate grant applications.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Open: May 14, 2008, 9 a.m. to 12 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, Board Room 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nim.nih.gov/od/bir.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–818 Filed 2–22–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Circadian Rhythms in Plants and Mice.

Date: March 5, 2008.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lawrence Baizer, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *baizerl@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Neural Mechanisms of Pain.

Date: March 10, 2008.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph G. Rudolph, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, (301) 435–2212, *josephru@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BST Member Conflict.

Date: March 13, 2008.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: George W. Chacko, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7849, Bethesda, MD 20892, (301) 435–1245, *chackoge@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR07–383: High End Instrumentation Grant Program.

Date: March 19–20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elena Smirnova, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, (301) 435–1236, *smirnove@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–814 Filed 2–22–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Select Topics in Bacterial Pathogenesis.

Date: March 4, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rolf Menzel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952. *menzelro@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Oncology.

Date: March 4, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Bell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7804, Bethesda, MD 20892, 301–451–8754. *bellmar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict Applications.

Date: March 11, 2008.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7814, Bethesda, MD 20892, 301–435–8367, *boerboom@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Behavioral Neuroscience.

Date: March 17–18, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Brian Hoshaw, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892, 301–435–1033, *hoshawb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurodegeneration and Neuroprotection Fellowships.

Date: March 17, 2008.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Lombardy, 2019 Pennsylvania Avenue, NW., Washington, DC 20006.

Contact Person: Carole L. Jelsema, PhD, Chief and Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, 301–435–1248, *jelsemac@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 AARR E40: Program Project Small Molecule Modulators for HIV Transcription.

Date: March 25–27, 2008.

Time: 6 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesday, MD 20892 (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, 301–435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Biological Sciences.

Date: March 27–28, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Donald L. Schneider, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7842, Bethesda, MD 20892, 301–435–1727, *schneidd@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–820 Filed 2–22–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0071]

Chemical Transportation Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). CTAC advises, consults with, and makes recommendations to the Coast Guard on matters relating to the safe and secure transportation and handling of hazardous materials in bulk

on U.S.-flag vessels in U.S. ports and waterways.

DATES: Application forms should reach the Coast Guard on or before July 31, 2008.

ADDRESSES: You may request an application form by writing to Commandant (CG–5223), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling (202) 372–1425/1422; or by faxing (202) 372–1926. Submit application forms to the same address. This notice and the application form are available on the Internet at *http://dms.dot.gov.* The application form is also available at *http://homeport.uscg.mil/ctac* as a supporting document for ''How to become a CTAC member'' under ''Members''.

FOR FURTHER INFORMATION CONTACT: Commander Richard J. Raksnis, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone (202) 372–1425/1422, fax (202) 372–1926.

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee (CTAC) is an advisory committee constituted under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). It advises, consults with, and makes recommendations to the Commandant through the Assistant Commandant for Operations on matters relating to the safe and secure transportation and handling of hazardous materials in bulk on U.S.-flag vessels in U.S. ports and waterways. The advice and recommendations of CTAC also assist the U.S. Coast Guard in formulating the position of the United States on hazardous material transportation issues prior to meetings of the International Maritime Organization.

CTAC meets at least once a year, usually twice a year, at Coast Guard Headquarters in Washington, DC, or in another location. CTAC's subcommittees and working groups may meet to perform specific assignments as required.

The Coast Guard will consider applications for nine positions that expire on December 31, 2008. To be eligible, applicants should have experience associated with, and represent the viewpoints of, the following areas associated with marine transportation of hazardous materials in bulk: Chemical manufacturing companies, companies that handle or transport chemicals in the marine environment, vessel design and construction companies, marine safety or security companies and marine environmental protection groups. Each member serves for a term of 3 years. Some members may serve consecutive terms. All members serve at their own expense, and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Dated: February 13, 2008.

J.G. Lantz,

Director of Commercial Regulations and Standards, Assistant Commandant for Operation.

[FR Doc. E8–3412 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2007–0142]

Notification of the Imposition of Conditions of Entry for Certain Vessels Arriving to the United States; Indonesia

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that effective anti-terrorism measures are not in place in certain ports of Indonesia and that it will impose conditions of entry on vessels arriving from that country.

DATES: The policy announced in this notice will become effective March 10, 2008.

ADDRESSES: This notice will be available for inspection and copying at the Docket Management Facility at the U.S. Department of Transportation, Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Mr. Michael Brown, International Port Security Evaluation Division, Coast Guard, telephone 202–372–1081. 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:

Background and Purpose

Section 70110 of the Maritime Transportation Security Act of 2002 (Pub. L. 107–295, Nov. 25, 2002) provides that the Secretary of Homeland Security may impose conditions of entry on vessels requesting entry into the United States arriving from ports that are not maintaining effective anti-terrorism measures. The Coast Guard has been delegated the authority by the Secretary to carry out the provisions of this section. The Docket contains previous notices imposing or removing conditions of entry on vessels arriving from certain countries and those conditions of entry and the countries they pertain to remain in effect unless modified by this notice.

The Coast Guard has determined that ports in Indonesia, with certain exceptions, are not maintaining effective anti-terrorism measures. Accordingly, effective March 10, 2008, Coast Guard will impose the following conditions of entry on vessels that visited ports in Indonesia with the exception of PT Terminal Petikemas Surabaya, Banjarmasin Port, PT Pertamina Unit Pemasaran III Jakarta, Pertamina Unit Pengolahan V Balikpapan, Senipah Terminal Total E&P Indonesia Balikpapan, Caltex Oil Terminal Dumai, Pelindo II Conventional Terminal Jakarta, Jakarta International Container Terminal, PT Pupuk Kaltim Bontang, PT Badak Bontang, PT Indominco Mandiri Bontang, Pertamina Unit Pengolahan II Dumai, PT Pelabuhan Indonesia I Cabang Dumai, Semarang International Container Terminal, Belawan Multi-Purpose Terminal and PT Multimas Nabati Asahan during their last five port calls. Vessels must:

- Implement measures per the ship's security plan equivalent to Security Level 2;
- Ensure that each access point to the ship is guarded and that the guards have total visibility of the exterior (both landside and waterside) of the ship while the ship is in an Indonesian port other than those specified above. Guards may be provided by the ship's crew, however additional crewmembers should be placed on the ship if necessary to ensure that limits on maximum hours of work are not exceeded and/or minimum hours of rest are met, or provided by outside security forces approved by the ship's master and Company Security Officer;
- Attempt to execute a Declaration of Security;
- Log all security actions in the ship's log;
- Report actions taken to the cognizant U.S. Coast Guard Captain of

the Port prior to arrival into U.S. waters; and

• Ensure that each access point to the ship is guarded by armed, private security guards and that they have total visibility of the exterior (both landside and waterside) of the ship while in U.S. ports. The number and position of the guards has to be acceptable to the cognizant Coast Guard Captain of the Port prior to the vessel's arrival.

With this notice, the current list of countries not maintaining effective anti-terrorism measures is as follows: Indonesia, Cameroon, Equatorial Guinea, Guinea-Bissau, Liberia, and Mauritania.

Dated: February 18, 2008.

Rear Admiral David Pekoske,

USCG Assistant Commandant For Operations.

[FR Doc. 08–842 Filed 2–21–08; 10:57 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–24191]

Extension of Agency Information Collection Activity Under OMB Review: Transportation Worker Identification Credential Program

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on December 3, 2007, 72 FR 67945. The collection mechanisms include (1) a Disclosure Form that requires a TWIC applicant to certify his/her eligibility and provide basic biographic information and (2) a customer satisfaction survey that evaluates an applicant's entire enrollment experience.

DATES: Send your comments by March 26, 2008. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3651; facsimile (703) 603–0822.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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 agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

TSA developed the TWIC program to mitigate security threats and vulnerabilities in the national maritime system. The TWIC is a biometric credential that is issued to all mariners and individuals who require unescorted access to maritime facilities and vessels. Before issuing an individual a credential, TSA performs a security threat assessment, which requires the collection of certain biographic and biometric information during the enrollment process. Each TWIC applicant must complete the TWIC Disclosure and Certification Form. This form provides the applicant a Privacy Act Notice and a Paperwork Reduction Act Statement, explains how an applicant's biographic information will be used, and requires each applicant to certify his/her eligibility for a TWIC, as required in the TWIC final rule. The TWIC Enrollment Customer Satisfaction Survey is entirely voluntary. However, participation is recommended to all applicants in order to provide the government key insights regarding the quality of each applicant's enrollment experience (initial enrollment through completion of card activation). The data collected from the surveys will be used for process improvements and contractor performance reviews.

The TWIC program implements authorities set forth in the Maritime Transportation Security Act of 2002 (MTSA) (Pub. L. 107–295; Nov. 25, 2002; sec. 102), and the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; Aug. 10, 2005; sec. 7105), codified at 49 U.S.C. 5103a(g). TSA and the United States Coast Guard (Coast Guard) issued a joint final rule on January 25, 2007, cited in the **Federal Register**, 72 FR 3492.

Applicants may provide enrollment data electronically during an optional pre-enrollment step, via an enrollment Web site which streamlines the applicant's enrollment experience. Applicants who pre-enroll are able to provide all of the biographic information electronically that is required to complete enrollment and make an appointment at the enrollment center where enrollment must be completed in-person. During in-person enrollment, applicants pay the enrollment fee, complete a TWIC Disclosure and Certification Form (required of all applicants), provide and verify biographic information (if not already provided during pre-enrollment) and a complete set of fingerprints, and sit for a digital photograph. All applicants are required to provide acceptable documents to verify their identity and immigration status (if required) at this time as well. These documents are reviewed by the Trusted Agent and scanned into the electronic enrollment record. The current estimated annualized reporting burden is 1,353,100 hours and the estimated annualized cost burden is $14,779,500 (low)/$18,063,833 (high).

Title: Transportation Worker Identification Credential Program.

Type of Request: Extension of a currently approved collection mechanisms.

OMB Control Number: [1652–0047].

Forms(s): Transportation Worker Identification Credential (TWIC) Disclosure Form and Certifications, and TWIC Enrollment Customer Service Survey.

Affected Public: Individuals applying for a TWIC.

Abstract: The data collected will be used for processing TWIC enrollment and conducting the security threat assessment. At the enrollment center, applicants verify their biographic information and provide identity documentation, biometric information, and proof of immigration status (if required). This information allows TSA to complete a comprehensive security threat assessment.

If TSA determines that the applicant is qualified to receive a TWIC, TSA notifies the applicant that their TWIC is ready for activation. Once activated, this credential will be used for identification verification and access control.

Number of Respondents: 777,000.

Estimated Annual Burden Hours: An estimated 1,000,000 hours annually.

Issued in Arlington, Virginia, on February 15, 2008.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E8–3467 Filed 2–22–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Marine City, MI; St. Ignace, MI; Palm Beach, FL; and St. Louis, MO

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Marine City, MI; St. Ignace, MI; Palm Beach, FL; and St. Louis, MO.

DATES: TWIC enrollment begins in Marine City and St. Louis on March 5, 2008; and St. Ignace and Palm Beach on March 6, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html;* or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov.*

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Pub. L. 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Pub. L. 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Marine City, MI; St. Ignace MI; Palm Beach, FL; and St. Louis, MO. Enrollment will begin in Marine City and St. Louis on March 5, 2008; and St. Ignace and Palm Beach on March 6, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Detroit, including those in the Port of Marine City; Captain of the Port Zone Upper Mississippi River, including those in the Port of St. Louis; Captain of the Port Zone Sault Ste. Marie, including those in the Port of St. Ignace; and Captain of the Port Zone Miami, including those in the Port of Palm Beach must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic.*

Issued in Arlington, Virginia, on February 20, 2008.

Rex Lovelady,

Program Manager, TWIC, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–3527 Filed 2–22–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–05]

Continuation of Interest Reduction Payments After Refinancing Section 236 Projects

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Owners of section 236 projects may submit information to HUD to request continuation of interest reduction payments after refinancing. As part of these refinancing transactions, HUD requires the execution of interest Reduction Payment Agreements and Use Agreements. HUD uses the information to ensure that projects are maintained as low-income housing resources.

DATES: *Comments Due Date:* March 26, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–NEW) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh

Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Continuation of Interest Reduction Payments after Refinancing Section 236 Projects.

OMB Approval Number: 2502–NEW.

Form Numbers: HUD–93173, HUD–93174, HUD–93175, HUD–93176.

Description of the Need for the Information and Its Proposed Use: Owners of Section 236 projects may submit information to HUD to request continuation of interest reduction payments after refinancing. As part of these refinancing transactions, HUD requires the execution of interest Reduction Payment Agreements and Use Agreements. HUD uses the information to ensure that projects are maintained as low-income housing resources.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,267	0.498		11		1,300

Total Estimated Burden Hours: 1,300.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 20, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–3524 Filed 2–22–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5188–N–04]

Notice of Proposed Information Collection: Comment Request: Relocation and Real Property Acquisition, Recordkeeping Requirements Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as Amended)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: April 25, 2008.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Pamela Williams, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 7234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Bryan O'Neill, Relocation Specialist, Relocation and Real Estate Division, CGHR, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Rm. 7168, Washington, DC 20410; e-mail *Bryan.J.O'Neill@HUD.gov*, (202) 708–2684. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. O'Neill.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Relocation and Real Property Acquisition, Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended).

OMB Control Number, if applicable: 2506–0121.

Description of the need for the information and proposed use: HUD funded projects involving the acquisition of real property or the displacement of persons as a direct result of acquisition, rehabilitation or demolition are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Agencies receiving HUD funding for such projects are required to document their compliance with applicable requirements of the URA and its implementing government-wide regulations at 49 CFR part 24.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response.

Status of the proposed information collection: Renewal.

Number of Respondents: 2,000.
Frequency of Responses: 40.
Hours per Response: 3.5.
Burden Hours: 280,000.
Change: 0.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: February 15, 2008.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. E8–3526 Filed 2–22–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–19]

Privacy Act of 1974; Notice of Matching Program Between the Department of Housing and Urban Development (HUD) and the Department of Health and Human Services (HHS): Matching Tenant Data in Assisted Housing Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a recurring computer matching program between HUD and HHS.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, as amended, HUD is providing notice of its intent to conduct a recurring computer matching program involving comparisons of information provided by participants in any authorized HUD rental housing assistance program under the independent sources of income information available through the National Directory of New Hires (NDNH) maintained by HHS. HUD previously conducted ''two'' separate matching programs with HHS. The first matching program was conducted between HHS and HUD's Public and Indian Housing (PIH) Program, which first began in September 2005. The second matching program was conducted between HHS and HUD's Office of Housing (Housing), Multifamily Housing Programs, which first began in December 2007. This notice supersedes the previous notices and combines the two existing matching programs into one. This update does not change the original scope of the existing matching program.

DATES: *Effective Date:* Computer matching is expected to begin *March 26, 2008,* unless comments are received which result in a contrary determination, or 40 days from the date a computer matching agreement is signed, whichever is later.

Comments Due Date: March 26, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: *For Privacy Act:* Office of the Chief Information Officer, contact the Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4156, Washington, DC 20410, telephone number (202) 402–8094. For program information: Office of Public and Indian Housing, contact Nicole Faison, Director of the Office of Public Housing Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4226, Washington, DC 20410, telephone number (202) 708–0744; and for the Office of Housing, contact Gail Williamson, Director of the Housing Assistance Policy Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6138, Washington, DC 20410, telephone number (202) 402–2473. (These are not toll-free numbers.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: The matching program will be carried out only to the extent necessary to: (1) Verify the employment and income of individuals participating in PIH and Multifamily Housing Programs to correctly determine the amount of their rent and assistance, and (2) After removal of personal identifiers, to conduct analyses of the employment and income reporting of individuals participating in HUD's rental housing assistance programs. HUD will make the results of the computer matching program available to public housing agencies (PHAs), private housing owners and management agents (O/As) administering HUD rental assistance programs to enable them to verify employment and income and correctly determine the rent and assistance levels for individuals participating in those programs, and contract administrators (CAs) overseeing and monitoring O/A operations. This information also may be disclosed to the HUD Inspector General (HUD/IG) and the Attorney General in detecting and investigating potential cases of fraud, waste, and abuse of the above named programs. HUD and its third party administrators (PHAs, O/As, and CAs) will use this matching authority to reduce or eliminate improper assistance payments in HUD's rental housing assistance programs.

The Computer Matching and Privacy Protection Act (CMPPA) of 1988, an amendment to the Privacy Act of 1974 (5 U.S.C. Sec. 552a), OMB's guidance on this statute entitled ''Final Guidance Interpreting the Provisions of Public Law 100–503,'' and OMB Circular No. A–130 requires publication of notices of computer matching programs. Appendix I to OMB's Revision of Circular No. A–130, ''Transmittal Memorandum No. 4, Management of Federal Information Resources,'' prescribes Federal agency responsibilities for maintaining records about individuals. In accordance with the CMPPA and Appendix I to OMB Circular No. A–130, copies of this notice are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and OMB's Office of Information and Regulatory Affairs.

I. Authority

This matching program is being conducted pursuant to sections 3003 and 13403 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, approved August 10, 1993); section 542(b) of the 1998 Appropriations Act (Pub. L. 105–65); section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544); section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543); the National Housing Act (12 U.S.C. 1701–1750g); the United States Housing Act of 1937 (42 U.S.C. 1437–1437z); section 101 of the Housing and Community Development Act of 1965 (12 U.S.C. 1701s); the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*); and the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 1437a(f)). The Housing and Community Development Act of 1987 authorizes HUD to require applicants and participants in HUD-administered programs involving rental housing assistance to disclose to HUD their social security numbers (SSNs) as a

condition of initial or continuing eligibility for participation in the programs.

Section 217 of the Consolidated Appropriations Act of 2004 (Pub. L. 108–199, approved January 23, 2004) authorizes HUD to provide to HHS information on persons participating in any programs authorized by:

(i) The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*);

(ii) Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(iii) Section 221(d)(3), 221(d)(5) or 236 of the National Housing Act (12 U.S.C. 17151(d) and 1715z–1);

(iv) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or

(v) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

HHS shall then compare this information provided by HUD with data contained in the National Directory of New Hires and report the results of the data match to HUD. The Act gives HUD the authority to disclose this information to O/As and PHAs for the purpose of verifying the employment and income of individuals receiving benefits in the above programs and CAs for oversight and monitoring purposes. HUD shall not seek, use or disclose information relating to an individual without the prior written consent of that individual, and HUD has the authority to require consent as a condition of participating in these programs.

HHS' disclosure of data from the National Directory of New Hires is authorized by section 217 of the Consolidated Appropriations Act of 2004 (Pub. L. 108–199). The disclosures from the HHS system of records, ''Location and Collection System of Records,'' No. 09–90–0074, will be made pursuant to routine use (17) identified in the **Federal Register** published on June 3, 2004 at 69 FR 31399. This routine use authorizes HHS to ''disclose to the Department of Housing and Urban Development information in the NDNH portion of this system for purposes of verifying employment and income of individuals participating in specified programs and, after removal of personal identifiers, to conduct analyses of the employment and income reporting of these individuals.''

II. Objectives To Be Met by the Matching Program

HUD's primary objective in continuing the existing computer matching program is to verify the employment and income of individuals participating in the housing programs identified in paragraph I above to determine the appropriate level of rental assistance, and to deter and correct abuse in rental housing assistance programs. In meeting these objectives HUD also is carrying out a responsibility under 42 U.S.C. 1437f(K) to ensure that income data provided to PHAs and O/As by household members is complete and accurate. HUD's various rental housing assistance programs require that participants meet certain income and other criteria to be eligible for rental assistance. In addition, tenants generally are required to report and recertify the amounts and sources of their income at least annually. However, under the QHWRA of 1998, PHAs operating Public Housing programs may now offer tenants the option to pay a flat rent, or an income-based rent. Those tenants who select a flat rent will be required to recertify income at least every three years. In addition, the changes to the Admissions and Occupancy final rule (March 29, 2000 (65 FR 16692)) specified that household composition must be recertified annually for tenants who select a flat rent or income-based rent.

Tribes and Tribally Designated Housing Entities (TDHEs) set admission and eligibility requirements pursuant to the requirements contained in the Native American Housing Assistance and Self Determination Act of 1996. They are not required to provide tenant data to the Department. Therefore, their participation in the computer matching program is discretionary.

III. Program Description

In this computer matching program, tenant-provided information included in HUD's automated systems of records known as Tenant Rental Assistance Certification System (TRACS) (HUD/H–11), Public and Indian Housing Information Center (PIC) (HUD/PIH–4), and Enterprise Income Verification (EIV) (HUD/PIH–5) will be compared to data from the NDNH database. The notices for these systems were published at 65 FR 52777, 67 FR 20986, and 70 FR 41780 which was subsequently amended and published at 72 FR 17589 respectively. HUD will disclose to HHS only tenant personal identifiers, i.e., full name, Social Security Number, and date of birth. HHS will match the HUD-provided personal identifiers to personal identifiers included in their systems of records known as ''Location and Collection System of Records,'' No. 09–90–0074. HHS will provide income data to HUD only for individuals with matching personal identifiers.

A. Income Verification

Any disparity between tenant-reported income and/or sources and the income and sources derived from the match (i.e., a ''hit'') will be further reviewed by HUD, the program administrator, or the HUD Office of Inspector General (OIG) to determine whether the income reported by tenants to the program administrator is correct and complies with HUD and program administrator requirements. Specifically, current or prior wage information and other data will be sought directly from employers and/or tenants.

B. Administrative or Legal Actions

Regarding the matching described in this notice, HUD anticipates that program administrators will take appropriate action in consultation with tenants to: (1) Resolve income disparities between tenant-reported and independent income source data, and (2) Use correct income amounts in determining housing rental assistance.

Program administrators must compute the rent in full compliance with all applicable occupancy regulations. Program administrators must ensure that they use the correct income and correctly compute the rent. The program administrator may not suspend, terminate, reduce, or make a final denial of any housing assistance to any tenant as the result of information produced by this matching program until: (a) The tenant has received notice of the program administrator's findings, and the tenant has been informed of the opportunity to contest such findings and (b) the expiration of any notice period provided by statute or applicable HUD program requirements. In all cases, program administrators will resolve income discrepancies in consultation with tenants. Additionally, serious violations, which program administrators, HUD Program staff, or HUD/IG verify, should be referred for full investigation and appropriate civil and/or criminal proceedings.

IV. Records To Be Matched

HHS will conduct the matching of tenant SSNs, full names, and dates of births (DOBs) to tenant data HUD supplies from its Tenant Rental Assistance Certification System (TRACS) (HUD/H–11) and Public and Indian Housing Information Center (PIC) system (HUD/PIH–4). Program administrators utilize the form HUD–50058 module within the PIC system and the form HUD–50059 module within the TRACS to provide HUD with the tenant data.

HHS will match the tenant records included in HUD/H–11 and HUD/PIH–4 to NDNH records contained in HHS' ''Location and Collection System of Records,'' No. 09–90–0074. HUD will place the resulting matched data into its Enterprise Income Verification (EIV) system (HUD/PIH–5). The notice for this system was published at 72 FR 17589. Routine uses of records maintained in the system, including categories of users and purposes of such uses was published in that Notice.

V. Period of the Match

The computer matching program will be conducted according to agreements between HUD and HHS. The computer matching agreement for the planned match will terminate either when the purpose of the computer matching program is accomplished, or 18 months from the date the agreement is signed, whichever comes first. The agreements may be extended for one 12-month period, with the mutual agreement of all involved parties, if the following conditions are met:

(1) Within three months of the expiration date, all Data Integrity Boards (DIBs) review the agreement, find that the program will be conducted without change, and find a continued favorable examination of benefit/cost results; and (2) All parties certify that the program has been conducted in compliance with the agreement.

The agreement may be terminated, prior to accomplishment of the computer matching purpose or 18 months from the date the agreement is signed (whichever comes first), by the mutual agreement of all involved parties within 30 days of written notice.

Authority: 5 U.S.C. 552a; 88 Stat. 1896; 42 U.S.C. 3535(d)

Dated: February 19, 2008.

Mike Milazzo,

Acting Chief Information Officer.

[FR Doc. E8–3516 Filed 2–22–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Outer Continental Shelf (OCS) Scientific Committee—Notice of Renewal

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of renewal of the Outer Continental Shelf Scientific Committee.

SUMMARY: Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the OCS Scientific Committee.

The OCS Scientific Committee provides advice on the feasibility, appropriateness, and scientific value of the OCS Environmental Studies Program to the Secretary of the Interior through the Director of the Minerals Management Service. The Committee reviews the relevance of the research and data being produced to meet MMS scientific information needs for decisionmaking and may recommend changes in scope, direction, and emphasis.

FOR FURTHER INFORMATION CONTACT: Ms. Jeryne Bryant, Minerals Management Service, Offshore Minerals Management, Herndon, Virginia 20170–4817, telephone, (703) 787–1213.

Certification

I hereby certify that the renewal of the OCS Scientific Committee is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 43 U.S.C. 1331 *et seq.*

Dated: February 19, 2008.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E8–3519 Filed 2–22–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Information Collection; OMB Control Number 1018–0101; Monitoring Recovered Species After Delisting-American Peregrine Falcon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to renew the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on April 30, 2008. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: You must submit comments on or before April 25, 2008.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

This IC implements the requirements of the Endangered Species Act (16 U.S.C. 1539). There are no corresponding Service regulations for the ESA's post-delisting monitoring requirement. This IC also implements the Migratory Bird Treaty Act (16 U.S.C. 704) contained in Service regulations in Chapter I, Subchapter B of Title 50 of the Code of Federal Regulations (CFR).

The American peregrine falcon was removed from the List of Endangered and Threatened Wildlife on August 25, 1999. Section 4(g) of the Endangered Species Act (ESA) requires that all species that are recovered and removed from the List of Endangered and Threatened Wildlife (delisted) be monitored in cooperation with the States for a period of not less than 5 years. The purpose of this requirement is to detect any failure of a recovered species to sustain itself without the protections of the ESA. We work with relevant State agencies and other species experts to develop appropriate plans and procedures for systematically monitoring recovered wildlife and plants.

The American peregrine falcon has a large geographic distribution that includes a substantial amount of non-Federal land. Although the ESA requires that monitoring of recovered species be conducted for not less than 5 years, the life history of American peregrine falcons is such that it is appropriate to monitor this species for a longer period of time in order to meaningfully evaluate whether or not the recovered species continues to maintain its recovered status. The Monitoring Plan for the American Peregrine Falcon is available on our website at http://www.fws.gov/endangered/pdfs/peregrin/Peregrineplan2003.pdf . Formal collection of monitoring data commenced in 2003. Rangewide population monitoring of American peregrine falcons under the Monitoring Plan will take place every 3 years through 2015.

We will use the information supplied on the FWS Forms 3–2307, 3–2308, and 3–2309 to review the status of the American peregrine falcon in the United States and determine if it remains

recovered and, therefore, does not require the protections of the ESA:

(1) FWS Form 3–2307 (Peregrine Falcon Monitoring Form) addresses the reporting requirements to record observations on the nesting pair, and the numbers of eggs and young during each nest visit. Each nest will be visited two (or more) times.

(2) FWS Form 3–2308 (Peregrine Falcon Egg Contaminants Data Sheet) addresses the reporting requirements to record data on eggs collected opportunistically during a nest visit.

(3) FWS Form 3–2309 (Peregrine Falcon Feather Contaminants Data Sheet) addresses the reporting requirements to record data on feathers collected opportunistically during a nest visit. Once collected, the eggs and feathers will be archived in a deep freeze for analysis at a later time.

II. Data

OMB Control Number: 1018–0101.

Title: Monitoring Recovered Species After Delisting-American Peregrine Falcon.

Service Form Number(s): FWS Forms 3–2307, 3–2308, and 3–2309.

Type of Request: Extension of currently approved collection.

Affected Public: Professional biologists employed by State agencies and other organizations, and volunteers that have been involved in past peregrine falcon conservation efforts.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion. Monitoring is conducted every 3 years. For eggs and feathers, 15–20 of each are collected over a period of no more than 5 years.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
3–2307	1,482	1,482	1 hour	1,482
3–2308	12	12	2 hours	24
3–2309	12	12	2 hours	24
Totals	1,506	1,506		1,530

III. Request for Comments

We invite comments concerning this IC on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include and/or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 30, 2008

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E8–3464 Filed 2–22–08; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

FWS–R8–ES–2008–N0001; ABC Code: 81420–1113–0000–F3]

Proposed Safe Harbor Agreement for Serpentine Endemic Species Located on Tulare Hill in Santa Clara County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: This notice advises the public that Pacific Gas and Electric Company (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service for the federally-threatened bay checkerspot butterfly (*Euphydryas editha bayensis*), the federally-endangered Metcalf Canyon jewelflower (*Streptanthus albidus albidus*), and the federally-threatened Santa Clara Valley dudleya (*Dudleya setchellii*). The Agreement is available for public comment.

DATES: Written comments should be received on or before March 26, 2008.

ADDRESSES: Comments should be addressed to Mr. Rick Kuyper, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. Written comments may be sent by facsimile to (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Kuyper, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the documents for review by contacting the individual named above. You may also make an appointment to view the documents at the above address during normal business hours.

Background

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent enhancement of survival permits that are issued pursuant to section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c).

The Service has worked with the Applicant to develop the proposed Agreement for the conservation of the bay checkerspot butterfly, the Metcalf

Canyon jewelflower, and the Santa Clara Valley dudleya on Tulare Hill (Enrolled Property) in Santa Clara County, California. The 45-acre Enrolled Property subject to this Agreement is located on serpentine soil. In order to benefit the bay checkerspot butterfly for the duration of this Agreement, the Applicant proposes to allow cattle grazing on the Enrolled Property. The Service expects that the proposed grazing activities will result in an increase in host plants for the bay checkerspot butterfly throughout the Enrolled Property thus resulting in a net conservation benefit for the bay checkerspot butterfly. Grazing may impact the Metcalf Canyon jewelflower and the Santa Clara Valley dudleya. The Agreement includes a monitoring component that will aid managers in selecting grazing management strategies that maintain bay checkerspot butterfly habitat while not adversely affecting these two listed plant species.

This Agreement provides for the restoration, enhancement, and management of serpentine habitat suitable for the bay checkerspot butterfly, the Metcalf Canyon jewelflower, and the Santa Clara Valley dudleya on the Enrolled Property. The proposed duration of the Agreement is 5 years, and the proposed term of the enhancement of survival permit is 30 years. When fully implemented, the Agreement and requested enhancement of survival permit will allow the Applicant to return to baseline after the end of the 5-year term of the Agreement and prior to the expiration of the 30-year permit, if so desired by the Applicant. The Agreement fully describes the management activities to be undertaken by the Applicant, and the net conservation benefits expected to the bay checkerspot butterfly, the Metcalf Canyon jewelflower, and the Santa Clara Valley dudleya.

Upon approval of this Agreement, and consistent with the Service's Safe Harbor Policy published in the **Federal Register** on June 17, 1999 (64 FR 32717), the Service would issue a permit to the Applicant authorizing take of the bay checkerspot butterfly incidental to the implementation of the management activities specified in the Agreement, incidental to other lawful uses of the Enrolled Property including normal, routine land management activities, and to return to pre-Agreement conditions (baseline). The Service does not authorize incidental take for federally-listed plant species in accordance with the Act, and only renders a jeopardy/non-jeopardy determination in the biological opinion.

The Applicant proposes to set the baseline level for the covered wildlife species (the bay checkerspot butterfly) with two measures. The first will be simply whether the property is grazed or not grazed, as grazing is recognized as an effective management tool for serpentine grasslands (USFWS 1998). The second will be based on a 2006 vegetation cover assessment of the Enrolled Property. Because of inherent variation in the annual occupancy rates and structure of the bay checkerspot butterfly metapopulation, baseline conditions may be best described in terms of available habitat. Baseline conditions for the Santa Clara Valley dudleya are defined as the number of individual occurrences based on the 2006 data. Baseline levels for the Metcalf Canyon jewelflower will be set at zero because there are no recent records of this species on Tulare Hill.

Public Review and Comments

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement that is also available for public review.

Individuals wishing copies of the Environmental Action Statement, and/or copies of the full text of the Agreement, including a map of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

If you wish to comment on the Agreement, you may submit your comments to the address listed in the **ADDRESSES** section of this document. Comments and materials received, including names and addresses of respondents, will be available for public review, by appointment, during normal business hours at the address in the **ADDRESSES** section above and will become part of the public record, pursuant to section 10(c) of the Act. Individual respondents may request that the Service withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which the Service would withhold from the record a respondent's identity, as allowable by law. If you wish the Service to withhold your name and/or address, you must state this prominently at the beginning of your comment. Anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

The Service will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If the Service determines that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the bay checkerspot butterfly incidental to otherwise lawful activities in accordance with the terms of the Agreement. The Service will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: January 24, 2008.

Susan K. Moore,

Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. E8–3420 Filed 2–22–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–6333–PH: HAG08–0061]

Filing of Plats of Survey: Oregon/Washington

AGENCY: U.S. Department of the Interior, Bureau of Land Management.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands were officially filed in the Bureau of Land Management Oregon/Washington State Office, Portland, Oregon, on February 6, 2008.

Willamette Meridian

Washington

T. 32 N., R. 35 E., accepted December 21, 2007

T. 23 N., R. 12 W., accepted December 28, 2008

Oregon

T. 39 S., R. 2 W., accepted December 3, 2007

T. 40 S., R. 2 W., accepted December 3, 2007

T. 3 S., R. 45 E., accepted December 21, 2007

T. 37, S., R. 3 W., accepted December 21, 2007

T. 32 S., R. 6 W. accepted December 21, 2008

T. 32 S., R. 6 W. accepted December 28, 2008

T. 39 S., R. 7 W., accepted December 28, 2008

A copy of the plats may be obtained from the Land Office at the Oregon/Washington State Office, Bureau of Land Management, 333 S.W. 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the Oregon/Washington State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Geographic Sciences, Bureau of Land Management, (333 S.W. 1st Avenue), P.O. Box 2965, Portland, Oregon 97208.

Dated: February 12, 2008.

Fred O'Ferrall,

Branch of Lands and Minerals Resources.

[FR Doc. E8–3473 Filed 2–22–08; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: Alaska State Museum, Juneau, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the Alaska State Museum, Juneau, AK, which meets the definition of ''object of cultural patrimony'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The one cultural item is the *Woodzixéedi Gooch Naazein Kudás'* or Multiplying Wolf Tunic (ASM catalogue number II–B–1356). The tunic is woven in the Chilkat technique, made by an unknown weaver in the style common in the late 19th century. The one-piece, sleeveless tunic is worn draped over the shoulders and over other clothing by both men and women. It has a figurative design of wolves woven on the front and geometric designs on the back. One side of the tunic is permanently closed, while the other side closes with leather ties. The tunic is hand woven from cedar bark, mountain goat wool, and commercial wool, and the design figures are dyed black, blue, and yellow, on a natural white background.

The ''multiplying wolf'' design depicted on the tunic is a primary crest of the Wolf House of the Kaagwaantaan clan of Sitka, AK. The ceremonial use of the tunic by members of the Wolf House is documented in photos from the late 19th century to early 20th century. Several images show the tunic being worn by Jake Yarquan (Yaak waan), a leader of the Wolf House who was most likely the caretaker of the tunic. Following Mr. Yarquan's death, the tunic was purchased from his widow, Lily Yarkwan, by the Historical Library and Museum Commission, and donated to the Alaska Historical Library and Museum, Territory of Alaska (now known as the Alaska State Museum).

Under Tlingit law, the tunic is considered *at.oow* of the Wolf House of the Sitka Kaagwaantaan, and is by definition the property of the group. Based on Tlingit law, the tunic is an object of cultural patrimony and has ongoing cultural importance to the clan. While *at.oow* is cared for by a clan leader it remains communal property. In this case, the tunic was alienated by the widow of the caretaker, Lily Yarkwan, who belonged to another clan. According to museum records, Mrs. Yarkwan presented herself as legal owner of the tunic to museum officials, who subsequently purchased it in good faith. There is no evidence that the Wolf House itself was directly involved in the alienation or that the transaction was handled in accordance with Tlingit law.

The Alaska State Museum has received claims for this object by the Central Council Tlingit & Haida Indian Tribes (on behalf of Mr. Andrew Gamble, a leader of the Wolf House), and by the Sitka Tribe of Alaska (on behalf of Mr. Herman Kitka, a clan leader of the Wolf House). During consultation with the tribes and clan officials, the parties presented similar information on the details, meaning, and history of the tunic, as well as traditional Tlingit law, but differed regarding the present leadership of the Wolf House. All parties agreed that the tunic is an object of cultural patrimony and was alienated without the consent of the Wolf House.

Officials of the Alaska State Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the tunic has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Officials of the Alaska State Museum also have determined that, pursuant to 25 U.S.C. 3001 (13), the museum does not have right of possession to the object of cultural patrimony. Lastly, officials of the Alaska State Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the object of cultural patrimony and the Central Council of the Tlingit & Haida Indian Tribes and Sitka Tribe of Alaska, both acting on behalf of leaders of the Wolf House of the Sitka Kaagwaantaan clan.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the object of cultural patrimony should contact Mr. Bruce Kato, Chief Curator, Alaska State Museum, 395 Whittier Street, Juneau, AK 99801–1718, telephone (907) 465–2901, before March 26, 2008. Repatriation of the object of cultural patrimony to the Central Council of the Tlingit & Haida Indian Tribes and/or Sitka Tribe of Alaska, on behalf of the Wolf House of the Sitka Kaagwaantaan clan, may proceed after that date if no additional claimants come forward.

Dated: January 22, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3457 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Arizona State Museum, University of Arizona, Tucson, AZ, that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

In 1958, cultural items were removed from a burial at the Mission San Xavier

del Bac site, AZ AA:16:10(ASM), Pima County, AZ, during legally authorized excavations conducted by the Department of Anthropology, University of Arizona, and Arizona State Museum under the direction of Bernard L. Fontana. The unassociated funerary objects were accessioned into the Museum's collections in 1959. The 100 unassociated funerary objects are shell beads.

The site is on church owned property within the boundaries of the San Xavier Indian Reservation. Father Eusebio Kino visited the O'odham village of Bac in 1692 and established Mission San Xavier. He reported the presence of 800 inhabitants at the time of his first visit. The same population has continued to occupy the land in the vicinity of the mission throughout the historic period. The unassociated funerary objects removed from the Mission san Xavier del Bac site are from historic times. Cultural continuity between the prehistoric occupants of the region and present day O'odham and Pee–Posh is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, ritual practices, and oral traditions. The descendants of the historic O'odham and Pee–Posh are members of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona.

Officials of the Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the 100 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Arizona State Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact John Madsen, Repatriation Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621–4795, before March 26, 2008. Repatriation of the unassociated funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona that this notice has been published.

Dated: December 19, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3453 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession and control of the Arizona State Museum, University of Arizona, Tucson, AZ. The human remains were removed from Pima County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Arizona State Museum professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona. The Tohono O'odham Nation of Arizona is acting on behalf of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona, Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and themselves.

In 1967, human remains representing a minimum of 38 individuals were removed from the Mission San Xavier del Bac site, AZ AA:16:10(ASM), within the boundaries of the San Xavier Indian Reservation in Pima County, AZ, during legally authorized excavations conducted by the Department of Anthropology, University of Arizona, and Arizona State Museum under the direction of Bernard L. Fontana. The human remains and other project materials were donated to the Arizona State Museum in 1967. In 2005, Arizona State Museum curatorial staff examined the animal bone collections from the excavations at Mission San Xavier del Bac and discovered human remains from non-burial contexts. No known individuals were identified. No associated funerary objects are present.

The site is on church owned property and is not under the control of the Department of the Interior, Bureau of Indian Affairs. The majority of the artifacts recovered from the excavations at the San Xavier Mission site were associated with a late historic period occupation, after A.D. 1700. Cranial and dental morphology of the skeletal remains is consistent with Native American ancestry.

At the time of Spanish entry into southern Arizona in the late 17th century, the lands currently under the jurisdiction of the Tohono O'odham Nation were occupied by O'odham-speaking populations. The same populations have continued to occupy these lands throughout the historic period. The human remains removed from the Mission San Xavier del Bac site are from historic times. Cultural continuity between the historic occupants of the region and present day O'odham and Pee-Posh peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, ritual practices, and oral traditions. The descendants of the historic O'odham

and Pee-Posh are members of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona.

Officials of the Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 38 individuals of Native American ancestry. Officials of the Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact John Madsen, Repatriation Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621–4795, before March 26, 2008. Repatriation of the human remains to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona that this notice has been published.

Dated: December 19, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3459 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Channel Islands National Park, Ventura, CA and Fowler Museum at UCLA, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Fowler Museum at UCLA, Los Angeles, CA and in the control of the U.S. Department of the Interior, National Park Service, Channel Islands National Park, Ventura, CA. The human remains and associated funerary objects were removed from an archeological site in Channel Islands National Park, Ventura County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the superintendent, Channel Islands National Park.

A detailed assessment of the human remains and associated funerary objects was made by the Fowler Museum at UCLA and Channel Islands National Park professional staff in consultation with representatives of the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

In 1958, human remains representing a minimum of three individuals were removed from the Le Dreau Cove Site on the south end of West Anacapa Island in Ventura County, CA, during legally authorized excavations by Marshall McKusick and Charles Rozaire of the University of California Archeological Survey and the UCLA Department of Anthropology, as a part of the Channel Islands Research Project. No known individuals were identified. The six associated funerary objects are two shell fragments, two animal bone fragments, and two stone fragments.

The human remains and associated funerary objects at the Le Dreau Cove Site date to a Late Period prehistoric population and culture that is regarded to be ancestral to historic and contemporary Chumash Indians. The prehistoric group is represented archeologically by the ''Canalino Horizon.''

Most archeologists believe that changes in Chumash material culture reflect evolving ecological adaptations and related changes in social organization of the same populations, and do not represent population movements. The same range of artifact types and materials was used from the early pre–contact period until historic times. Native consultants explicitly state that population mixing would not alter the continuity of the shared group identities of people associated with specific locales. Therefore, continuity through time can be traced for Le Dreau Cove with present–day Chumash groups. In addition, Le Dreau Cove is located within the historically documented aboriginal territory of the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Officials of Channel Islands National Park have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of three individuals of Native American ancestry. Officials of Channel Islands National Park also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the six objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of Channel Islands National Park have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Russell E. Galipeau Jr., superintendent, Channel Islands National Park, 1901 Spinnaker Drive, Ventura, CA 93001, telephone (805) 658–5700, before March 26, 2008. Repatriation of the human remains and associated funerary objects to the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California may proceed after that date if no additional claimants come forward.

Channel Islands National Park is responsible for notifying Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California that this notice has been published.

Dated: January 24, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3449 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Denver Museum of Nature & Science, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Denver Museum of Nature & Science, Denver, CO. The human remains and associated funerary objects were removed from Maricopa County, AZ, and an unknown location in Arizona.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Denver Museum of Nature & Science professional staff in consultation with the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

At an unknown date, human remains representing a minimum of two individuals were removed from an unknown location in Arizona. Subsequently, the human remains came into the possession of Walter J. Crawford of Americana Galleries. In 1964, Mary W. A. Crane and Francis V. Crane acquired the human remains from Mr. Crawford. In 1983, the Cranes donated the human remains to the museum (AC.7025A–C and AC.8175A–C). No known individuals were identified. The two associated funerary objects are ceramic burial jars with lids.

The ceramic burial jars are identified as Gila River and Gila Smudged Red styles. The human remains are cremations, which were placed in containers of a type diagnostic of the Hohokam Archaeological Tradition, approximately A.D. 1100–1300.

In 1933, human remains representing a minimum of one individual were removed from a site, later called La Cuidad, on private land in Phoenix, Maricopa County, AZ, by Mrs. Stearit, the landowner, while digging on her property. Subsequently, and by unknown means, Walter J. Crawford of Americana Galleries acquired the human remains. In 1965, Mary W. A. Crane and Francis V. Crane acquired the human remains from Mr. Crawford. In 1983, the Cranes donated the human remains to the museum (AC.9089A–C). No known individual was identified. The one associated funerary object is a ceramic burial jar with a cover pot.

The ceramic burial jar is identified as a diagnostic pottery type of the Hohokam Archaeological Tradition, approximately A.D. 1100–1300.

According to archeological research, common Hohokam funerary practices included cremation, placement of the human remains in ceramic burial jars, and subsequent burial. Museum records and archeological research indicate that the human remains from both sites are Native Americans, ancestral to present-day O'odham, Piman, Hopi, and Zuni cultures. Consultation with tribal representatives of the Pima and Tohono O'odham supports this information. Descendants of the O'odham, Pima, Hopi, and Zuni are members of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the Denver Museum of Nature & Science have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of three individuals of Native American ancestry. Officials of Denver Museum of Nature & Science also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the three objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Denver Museum of Nature & Science officials have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Chip Colwell-Chanthaphonh, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6378, before March 26, 2008. Repatriation to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Denver Museum of Nature & Science is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: January 3, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3455 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Denver Museum of Nature & Science, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Denver Museum of Nature & Science, Denver, CO. The

human remains and associated funerary objects were removed from Kern County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and the associated funerary objects was made by Denver Museum of Nature & Science professional staff in consultation with representatives of the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California.

Sometime between 1928 and 1934, human remains representing a minimum of four individuals were removed from a burial context in the area of Buena Vista Lake, Kern County, CA. Mr. George E. Smith may have collected the human remains and associated funerary objects in 1928, while digging and privately collecting in the Buena Vista Lake vicinity, or sometime between 1933 and 1934 while Mr. Smith was working on an archeological excavation with Dr. W. D. Strong of the Smithsonian Institution at the ancient Yokuts site of Tulamniu at Buena Vista Lake. In 1951, Mary W. A. Crane and Francis V. Crane purchased the human remains and associated funerary objects from Mr. Smith's small museum in California. In 1983, the Cranes donated the human remains and the museum accessioned them into the collection that same year (DMNS catalogue numbers AC.2157A–E). No known individuals were identified. The three associated funerary objects are three stone projectile points.

Based on provenience, museum records, research, and consultation with tribal representatives, the human remains and associated funerary objects are determined to be Native American. The Buena Vista Lake vicinity and the Native American town of Tulamniu are in the territory occupied during the early Historic period by the Southern Valley Yokuts, now known as the Tule River Indian Tribe of the Tule River Reservation, California. During consultation, representatives of the Tule River Indian Tribe of the Tule River Reservation, California confirmed the historic presence of their ancestors in the Buena Vista Lake area and claimed a relationship of shared group identity with the human remains. Additionally, in consultations, and with support of anthropological evidence, tribal representatives emphasized that the Buena Vista Lake vicinity relates to the Yokut people, the ancestors of the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California. These tribes confirmed the historic presence of their ancestors in the Buena Vista Lake area and claim a relationship of shared group identity with the human remains.

Officials of the Denver Museum of Nature & Science have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of four individuals of Native American ancestry. Officials of the Denver Museum of Nature & Science officials have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the three objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Denver Museum of Nature & Science officials have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Chip Colwell–Chanthaphonh, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6378, before March 26, 2008. Repatriation of the human remains and associated funerary objects to the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California may proceed after that date if no additional claimants come forward.

The Denver Museum of Nature & Science is responsible for notifying the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California that this notice has been published.

Dated: January 22, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3456 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Natural History Museum of Los Angeles County Foundation, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Natural History Museum of Los Angeles County Foundation, Los Angeles, CA. The human remains and associated funerary objects were removed from Los Angeles, San Luis Obispo, Santa Barbara, and Ventura Counties, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Natural History Museum of Los Angeles County Foundation professional staff in consultation with representatives of the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

In 1905, human remains representing a minimum of three individuals were removed from an unknown locality on Santa Cruz Island, Santa Barbara County, CA. The human remains were donated to the Natural History Museum of Los Angeles County by Mr. Burbank in 1931. No known individuals were

identified. No associated funerary objects are present.

In 1915, human remains representing a minimum of two individuals were removed from ''the Malibu Ranch,'' an unknown location in Los Angeles County, CA. The human remains were subsequently donated to the Natural History Museum of Los Angeles County by Irving V. Auger. No known individuals were identified. No associated funerary objects are present.

Between 1920 and 1940, human remains representing a minimum one individual were removed from the Muwu site (4–VEN–11), Ventura County, CA, by the Native Daughters of the Golden West. The human remains were donated to the Natural History Museum of Los Angeles County in 1971. No known individual was identified. No associated funerary objects are present.

In 1921, human remains representing a minimum of one individual were removed from Mutuba Road, Malibu, Los Angeles County, CA. The human remains were subsequently donated to the Natural History Museum of Los Angeles County by Joseph H. Call. No known individual was identified. No associated funerary objects are present.

In 1924, human remains representing a minimum of one individual were removed from a site in Ventura County, CA, by Natural History Museum of Los Angeles staff members W.A. Bryan (director), Howard. R. Hill, and Mr. Herring. The human remains were listed in an accession that contained human remains from both Little Sycamore Creek and from Arroyo Sequit Creek. No known individual was identified. No associated funerary objects are present.

In 1924, human remains representing a minimum of three individuals were removed from Oak Creek, Ventura County, CA, by Howard R. Hill and subsequently donated to the Natural History Museum of Los Angeles. No known individuals were identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the six sites described above were occupied by Chumash peoples from precontact times into the historic period.

In 1929, human remains representing a minimum of 15 individuals were removed from the Avila site (4–SLO–56), San Luis Obispo County, CA, by members of the Van Bergen-Los Angeles Museum Expedition. No known individuals were identified. The 742 associated funerary objects are 675 abalone pendants, 1 bag of abalone pendant fragments, 1 abalone dish, 1 abalone shell, 24 keyhole limpet rings, 10 chert knives, 1 obsidian projectile point, 2 spear points, 1 bone knife fragment, 1 rhyolite mortar with olivella disk bead inlay, 1 sandstone mortar fragment, 1 sandstone pestle, 1 stone awl sharpener, 15 birdbone whistle fragments, 1 worked elk antler tip, 1 sea lion jaw, 1 partial dog skeleton, and 4 whalebone fragments (possible grave markers).

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Avila site was used by Chumash peoples from 500 B.P. into the historic period.

Between 1929 and 1932, human remains representing a minimum of 26 individuals were recovered from the Muwu site (4–VEN–11), Ventura County, CA, by members of the Van Bergen-Los Angeles Museum expedition. No known individuals were identified. No associated funerary objects are present.

In 1933, human remains representing a minimum of 13 individuals were removed from Santa Rosa Island, Santa Barbara County, CA, by H. Arden Edwards of the Antelope Valley Museum, Lancaster, CA. The human remains were donated to the Natural History Museum of Los Angeles County in 1979 by Grace Oliver, the owner of the Antelope Valley Museum. No known individuals were identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that Santa Rosa Island was occupied by Chumash peoples from precontact times into the historic period.

In 1952, human remains representing a minimum of nine individuals were removed from the Little Sycamore site (4–VEN–1), Ventura County, CA, by University of Southern California staff W.J. Wallace. The University of Southern California donated the human remains and associated funerary objects to the Natural History Museum of Los Angeles County in 1988. No known individuals were identified. The 16 associated funerary objects are 5 abalone shells; 2 lots of oyster, mussel, clam, and snail shell fragments; 6 rounded stones; and 3 rocks.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Little Sycamore Creek area was occupied by Chumash peoples from precontact times into the historic period.

In 1953, human remains representing a minimum of three individuals were removed from Gilmore Rock Shelter (4–VEN–57) in Little Sycamore Canyon, Ventura County, CA, by University of Southern California staff W.J. Wallace. The University of Southern California donated the human remains to the Natural History Museum of Los Angeles in 1988. No known individuals were identified. No associated funerary objects are present.

Archeological evidence indicates that the Gilmore Rock Shelter was used intermittently from 500 B.P. into the historic period. Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Little Sycamore Canyon area was occupied by Chumash peoples from precontact times into the historic period.

In 1958–59, human remains representing a minimum of 22 individuals were removed from the Simo'mo site (4–VEN–24/26), Ventura County, CA, by Charles Rozaire, Natural History Museum of Los Angeles County staff. No known individuals were identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Simo'mo site was occupied by Chumash peoples from precontact times into the historic period.

At an unknown date, human remains representing a minimum of one individual were removed from an unidentified site in the vicinity of Morro Bay, San Luis Obispo County, CA, and subsequently donated to the Natural History Museum of Los Angeles County by an unknown donor. ''Morro Bay'' is written on the human remains. No known individual was identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Morro Bay area was occupied by Chumash peoples from precontact times into the historic period.

At an unknown date, human remains representing a minimum of one individual were removed from Happy Valley, Santa Barbara County, CA, by Dr. A. Ousdal. Dr. Ousdal donated the human remains to the Allan Hancock Foundation of the University of Southern California. In 1988, the University of Southern California donated the human remains as part of a larger collection to the Natural History Museum of Los Angeles. No known individual was identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Happy Valley area was occupied by Chumash peoples from precontact times into the historic period.

At an unknown date, human remains representing a minimum of 13

individuals were removed from Arroyo Sequit Mound in Arroyo Sequit, Ventura County, CA. The human remains were subsequently donated to the Natural History Museum of Los Angeles County by E.D. Mitchell. One set of human remains was identified by a tag reading ''E.D.M. 281, burial 18, Arroyo Sequit Mound.'' The other 12 sets of human remains were identified by a tag reading ''California Los Angeles County Arroyo Sequit Shell Mound Misc. Bones EDM–274.'' No known individuals were identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Arroyo Sequit area was occupied by Chumash peoples from precontact times into the historic period.

At an unknown date, human remains representing a minimum of three individuals were removed from a site in Solstice Canyon, Los Angeles County, CA. The human remains were subsequently donated to the Natural History Museum of Los Angeles County in 1971 by the Native Daughters of the Golden West. No known individuals were identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that Solstice Canyon was occupied by Chumash peoples from precontact times into the historic period.

At an unknown date, human remains representing a minimum of four individuals were removed from the Paradise Cove site (4–LAN–222), Malibu, Los Angeles County, CA. The human remains were labeled ''LAN–222 Paradise Cove.'' No known individuals were identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Malibu area was occupied by Chumash peoples from precontact times into the historic period.

At an unknown date, human remains representing a minimum of one individual were removed from Point Dume, Los Angeles County, CA. The human remains were subsequently donated to the Natural History Museum of Los Angeles County by an unknown donor. The remains were labeled ''Point Dume.'' No known individual was identified. No associated funerary objects are present.

Oral historic, historic, ethnographic, archeological, and linguistic evidence indicates that the Point Dume area was occupied by Chumash peoples from precontact times into the historic period.

Archeological and linguistic evidence indicates that Chumash culture developed in place and is of substantial antiquity in the area of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles Counties. Consultation with representatives of the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California confirms that the area of San Luis Obisbo, Santa Barbara, Ventura and Los Angles Counties is within the territory traditionally occupied by the Chumash and that the human remains and associated funerary objects described above are culturally affiliated with the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Officials of the Natural History Museum of Los Angeles County Foundation have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 122 individuals of Native American ancestry. Officials of the Natural History Museum of Los Angeles County Foundation also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 758 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Natural History Museum of Los Angeles County Foundation have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Margaret Hardin, Natural History Museum of Los Angeles County Foundation, 900 Exposition Blvd., Los Angeles, CA 90007, telephone (213) 763–3475, before March 26, 2008. Repatriation of the human remains and associated funerary objects to the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California may proceed after that date if no additional claimants come forward.

The Natural History Museum of Los Angeles County Foundation is responsible for notifying the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California that this notice has been published.

Dated: December 21, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3447 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Natural History Museum of Los Angeles County Foundation, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of Natural History Museum of Los Angeles County Foundation, Los Angeles, CA. The human remains were removed from Kern and Kings Counties, CA, and an unknown location probably in the interior of California.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

An assessment of the human remains was made by the Natural History Museum of Los Angeles County Foundation professional staff in consultation with representatives of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California (also known as the Tachi Yokut Tribe).

In or before 1918, human remains representing a minimum of one individual were removed from Kern County, CA. The human remains were brought to the museum by a private collector and accessioned on August 11, 1918 (Accession number A.847.18–1). No known individual was identified. No associated funerary objects are present.

The accession records indicate the human remains were excavated from a location ''45 miles N.W. of Bakersfield and 12 miles S.E. of Lost Hill.'' Based on museum records, the human remains are Native American. There is no further documentation on the original context of the human remains.

In or before 1951, human remains representing a minimum of three individuals were removed from Kings

County, CA, by an unknown person. The human remains were brought to the museum by a private collector and accessioned into the Department of Mammalogy in September, 1951. In 1993, the human remains were transferred to the Department of Anthropology (Accession numbers LACM 51136, LACM.51137, and LACM 51139). No known individuals were identified. No associated funerary objects are present.

The accession records indicate two individuals were recovered from a location in Kings County ''7 miles south of Lemore.'' The other individual was recovered ''5 miles south of Lemore.'' Based on museum records, the human remains are Native American. There is no further documentation on the original context of the human remains.

In or before 1956, human remains representing a minimum of one individual were removed from an unknown locality from probably the interior of California. The human remains were brought to the Natural History Museum of Los Angeles County Foundation by a private collector and accessioned on September 18, 1956 (Accession number A.6988.56–24). No known individual was identified. No associated funerary objects are present.

The collector designated the human remains as that of a ''Yokuk Indian.'' The accession records do not indicate a specific locality nor is there further documentation on the original context of the human remains. Based on collector information and museum records, the museum has determined that the human remains are reasonably believed to be Yokut.

The five individuals described above had previously been determined to be culturally unidentifiable. However, during consultation, tribal representatives of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California established that the Yokut had territories in portions of central California, including Kern and Kings Counties. The Yokut are divided into Northern, Southern, and Foothill Yokut. Descendants of the Yokut are members of the Picayune Rancheria of Chuckchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California.

Officials of the Natural History Museum of Los Angeles County Foundation have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of five individuals of Native American ancestry. Officials of the Natural History Museum of Los Angeles County Foundation also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Picayune Rancheria of Chuckchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Margaret Ann Hardin, Natural History Museum of Los Angeles County Foundation, 900 Exposition Blvd., Los Angeles, CA 90007, telephone (213) 763–3382, before March 26, 2008. Repatriation of the human remains to the Santa Rosa Indian Community of the Santa Rosa Rancheria, California may proceed after that date if no additional claimants come forward.

The Natural History Museum of Los Angeles County Foundation is responsible for notifying the Picayune Rancheria of Chuckchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California that this notice has been published.

Dated: December 21, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3450 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Natural History Museum of Los Angeles County Foundation, Los Angeles, CA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Natural History Museum of Los Angeles County Foundation, Los Angeles, CA. The human remains were removed from Tulare County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Natural History Museum of Los Angeles County professional staff in consultation with representatives of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California (also known as the Tachi Yokut Tribe) and Tule River Indian Tribe of the Tule River Reservation, California.

After further consultation with the tribal representatives, cultural affiliation has been revised for a Notice of Inventory Completion previously published in the **Federal Register** of August 16, 1999 (FR Doc 99–21068, pages 44535–44536) by adding the Santa Rosa Indian Community of the Santa Rosa Rancheria, California. This notice supersedes the previously published Notice of Inventory Completion of August 16, 1999.

In 1932, human remains representing one individual were recovered from the Robla Lomas Ranch, Woodlake, Tulare County, CA, under unknown circumstances. In 1972, the human remains were donated to the Los Angeles County Museum of Natural History (now the Natural History Museum of Los Angeles County Foundation) by Helen Phillips Spears. No known individual was identified. No associated funerary objects are present.

Collections documentation indicates this individual was found with ten other individuals on the Robla Lomas Ranch. Documentation also suggests that the human remains are probably those of an individual killed by the Spanish during a battle known to have occurred at the Robla Lomas Ranch in 1832. Ethnohistoric information, as well as consultation with tribal representatives of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California and Tule River Indian Tribe of the Tule River Reservation, California, indicates that the Robla Lomas Ranch is within the historic territory traditionally occupied by the Yokut. Descendants of the Yokut are members of the Picayune Rancheria of Chuckchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River

Reservation, California. Consultations with tribal representatives confirm that the human remains are culturally affiliated with the Picayune Rancheria of Chuckchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California.

Officials of the Natural History Museum of Los Angeles County Foundation have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Natural History Museum of Los Angeles County Foundation also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Picayune Rancheria of Chuckchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Margaret Ann Hardin, Natural History Museum of Los Angeles County Foundation, 900 Exposition Blvd., Los Angeles, CA 90007, telephone (213) 763–3382, before March 26, 2008. Repatriation of the human remains to the Santa Rosa Indian Community of the Santa Rosa Rancheria, California may proceed after that date if no additional claimants come forward.

The Natural History Museum of Los Angeles County Foundation is responsible for notifying the Picayune Rancheria of Chuckchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and Tule River Indian Tribe of the Tule River Reservation, California that this notice has been published.

Dated: December 21, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3451 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Oregon State University Department of Anthropology, Corvallis, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of Oregon State University Department of Anthropology, Corvallis, OR. The human remains and associated funerary objects were removed from Squaw Valley, Placer or Plumas County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Oregon State University Department of Anthropology professional staff in consultation with representatives of the Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches).

On October 23, 1964, human remains representing a minimum of one individual were removed from a cave in Squaw Valley, Plumas or Placer County, CA, by an individual identified in museum records simply as ''Johnson.'' The date and circumstances of accession by Oregon State University Department of Anthropology are unknown. No known individual was identified. The four associated funerary objects are three basalt projectile points and one mustard chert projectile point.

The Washoe Tribe of Nevada & California occupied the Squaw Valley area, including Placer and Plumas Counties, CA, as part of their traditional territory. They traditionally carried out funerary practices that included placing projectile points of basalt and mustard chert with the deceased at the time of interment.

Officials of the Oregon State University Department of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Oregon State University Department of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the four objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Oregon State University Department of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Washoe Tribe of Nevada & California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. David McMurray, Oregon State University Department of Anthropology, 238 Waldo Hall, Corvallis, OR 97331, telephone (541) 737–4515, before March 26, 2008. Repatriation of the human remains and associated funerary objects to the Washoe Tribe of Nevada & California may proceed after that date if no additional claimants come forward.

Oregon State University Department of Anthropology is responsible for notifying Big Sandy Rancheria of Mono Indians of California; Cold Springs Rancheria of Mono Indians of California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Greenville Rancheria of Maidu Indians of California; Paiute–Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno–Sparks Indian Colony, Nevada; Table Mountain Rancheria of California; United Auburn Indian Community of the Auburn Rancheria of California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada & California; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada that this notice has been published.

Dated: January 24, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3448 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Pioneer Historical Society of Bent County, Las Animas, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Pioneer Historical Society of Bent County, Las Animas, CO. The human remains were removed from La Plata County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Pioneer Historical Society of Bent County professional staff in consultation with representatives of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado.

On an unknown date, human remains representing a minimum of one individual were removed from ''an old grave'' found in the vicinity of the Southern Ute Indian Reservation at Ignacio, La Plata County, CO. The human remains were donated to the museum by Mrs. Will Cooper on an unknown date. No known individual was identified. No associated funerary objects are present.

The general description of the location from which the human remains were removed, as well as the collecting practices of people in the area, suggests this individual is Native American. The Southern Ute Reservation is a checkerboard with many private in-holdings from which the human remains are believed to have been removed. The U.S. Department of the Interior, Bureau of Indian Affairs does not exert control over the human remains in this notice. The Southern Ute Indian Tribe lives on the Southern Ute Indian Reservation.

Officials of the Pioneer Historical Society of Bent County have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Pioneer Historical Society of Bent County also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Kathy Finau, Project Coordinator, Pioneer Historical Society of Bent County, PO Box 68, Las Animas, CO 81045, telephone (719) 469–8818, before March 26, 2008. Repatriation of the human remains to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado may proceed after that date if no additional claimants come forward.

Pioneer Historical Society of Bent County is responsible for notifying the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado that this notice has been published.

Dated: December 20, 2007

Sherry Hutt.

Manager, National NAGPRA Program.

[FR Doc. E8–3454 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Southeast Archeological Center, Tallahassee, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Southeast Archeological Center (SEAC), Tallahassee, FL. The human remains and associated funerary objects were removed from the Irene Mound site in Chatham County, GA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the Director, Southeast Archeological Center.

A detailed assessment of the human remains and associated funerary objects was made by Southeast Archeological Center professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Catawba Indian Nation (aka Catawba Tribe of South Carolina); Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Choctaw Nation of Oklahoma; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma. The Shawnee Tribe, Oklahoma — a non-federally recognized Native American group at the time that they were consulted, as guests of the federally recognized Eastern Shawnee Tribe of Oklahoma and the Absentee-Shawnee Tribe of Indians of Oklahoma — has since been recognized as eligible for the special programs and Service's provided by the United States to Indians because of their status as Indians under provisions of P.L. 106–568.

Between 1937 and 1940, human remains representing a minimum of 265 individuals were removed from the Irene site in Chatham County, GA, under the joint sponsorship of the Works Progress Administration and the Chatham County Commission. After several years of negotiation, the Irene collection was donated to the National Park Service by the Chatham County Commission on January 29, 1942. According to SEAC records, most of the human remains from the Irene site were transferred to the Smithsonian Institution in February, 1964. When the SEAC inventory of human remains was conducted in the early 1990s, it was discovered that five sets of human remains representing a minimum of five individuals were overlooked in this transfer. No known individuals were identified. The 119 associated funerary objects are 56 beads, 13 ceramic jars, 13 animal bones, 8 ceramic bowls, 6 projectile points, 5 sherds, 3 burial urns, 3 shell earplugs, 1 chipped stone flake, 2 shell fragments, 2 shell gorgets, 1 beaker, 1 pin, 1 ceramic bottle, 1 bone artifact, 1 piece of hematite, 1 groundstone, and 1 bannerstone.

The Irene site consists of a mound, village, and mortuary complex located near Savannah, GA. Two mounds were constructed at the site: a large, seven-stage ceremonial flat-topped mound used during the Savannah phase (A.D. 1200–1325) and Irene phase (A.D. 1325–1700), and a conical shell burial mound used during the Irene phase. The mortuary structure consisted of a circular building in which residents placed urn burials. The human remains and associated funerary objects date to the Irene Phase (A.D. 1325–1700) on the basis of archeological context and mortuary practices.

The first recorded European contact in the Savannah area occurred in the summer of A.D. 1526 when settlers under Lucas Vasquez de Ayllon briefly established a colony along the ''Gualdape'' river (believed to be the present-day Savannah River). Ayllon's settlement is thought to have been in or near the territory of the Cusabo. Sometime in the late 1600s, a portion of the Cusabo joined the emergent Creek Confederacy. Ayllon's name for the river also may refer to Guale residents of the area. By 1700, many of the Guale had relocated south to Florida. However, some of the remaining Guale population joined with the Tama to form the Yamassee Tribe. Other Guale fled inland to settle with the emergent Lower Creek towns on the Ocmulgee and Chattahoochee Rivers. When he landed at Savannah in 1733, Governor Oglethorpe encountered members of the Yamacraw band, thought to be a Yamassee tribal town that had joined the Creek Confederacy. In 1736, Moravian missionaries established a mission on the Irene site itself, which was, by then, unoccupied by native peoples, although a small unidentified American Indian village was located nearby. The Irene site is located within the historically-recognized territories of the Cusabo, Guale, and Yamassee tribes-in the time range when individuals were buried at Irene. Subsequent to the burials, subsets of the Cusabo, Guale and Yamasee were incorporated into the Creek Confederacy. Descendents of the Creek Confederacy are members of the federally-recognized tribes of the Alabama-Quassarte Tribal Town, Oklahoma; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and Thlopthlocco Tribal Town, Oklahoma. Analysis of the Irene ceramic complex indicates a close affinity with various Muskhogean-speaking and proto-Creek Confederacy tribes in Georgia.

Additionally, the Irene site is located less than 50 miles from the Newberry site, or Cofitachique as it was referred to by the chroniclers of Hernando de Soto in 1540. The modern Catawba tribe is derived, at least in part, from ''the people of the province of Cofitachique as well as lesser societies.'' Ancestors of modern Catawba tribal members may have included residents of the Irene site.

Officials of the Southeast Archeological Center have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of five individuals of Native American ancestry. Officials of the Southeast Archeological Center also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 119 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Southeast Archeological Center have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Alabama-Quassarte Tribal Town, Oklahoma; Catawba Indian Nation (aka Catawba Tribe of South Carolina); Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and Thlopthlocco Tribal Town, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Bennie Keel, Ph.D., Director, Southeast Archeological Center, National Park Service, 2035 E. Paul Dirac Drive, Johnson Building, Suite 120, Tallahassee, FL 32310, telephone (850) 580–3011, before March 26, 2008. Repatriation of the human remains and associated funerary objects to the Alabama-Quassarte Tribal Town, Oklahoma; Catawba Indian Nation (aka Catawba Tribe of South Carolina); Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and Thlopthlocco Tribal Town, Oklahoma may proceed after that date if no additional claimants come forward.

The Southeast Archeological Center is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Catawba Indian Nation (aka Catawba Tribe of South Carolina); Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Choctaw Nation of Oklahoma; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: January 22, 2008.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3446 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Region, Salt Lake City, UT; Utah Department of Natural Resources, Division of Parks and Recreation, Salt Lake City and Vernal, UT; and Utah Museum of Natural History, University of Utah, Salt Lake City, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Region, Salt Lake City, UT and Utah Department of Natural Resources, Division of Parks and Recreation, Salt Lake City and Vernal, UT, and in the possession of the Utah

Museum of Natural History, Salt Lake City, UT. The human remains and associated funerary objects were removed from Box Elder and Uintah Counties, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary objects was made by the U.S. Department of Interior, Bureau of Reclamation and Utah Division of Parks and Recreation professional staff, as well as by contracted specialists, in consultation with representatives of the Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Northwestern Band of Shoshoni Nation of Utah; Paiute Indian Tribe of Utah; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Zia, New Mexico; Skull Valley Band of Goshute Indians of Utah; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1959, human remains representing a minimum of four individuals were removed from site 42UN128 in or near Steinaker Reservoir, Uintah County, UT. The human remains are curated by the Utah Museum of Natural History. No known individuals were identified. No associated funerary objects were present.

In 1960, human remains representing a minimum of 27 individuals were removed from Uintah County, UT. The human remains are curated by the Division of Parks and Recreation, Utah Field House of Natural History State Park. No known individuals were identified. The three associated funerary objects are two mats and one cloak.

In 1990, human remains representing a minimum of one individual were removed from site 42UN1671 in Steinaker Reservoir, Uintah County, UT. The human remains are housed by the Bureau of Reclamation. No known individual was identified. No associated funerary objects are present.

The 32 individuals and 3 associated funerary objects from Uintah County, UT, are classified as Uinta Fremont based on inferences from physical anthropology, archeology, and location.

In 1959, human remains representing a minimum of one individual were removed from site 42BO30 (Willard Mounds) near the Great Salt Lake, Box Elder County, UT. The human remains are curated by the Utah Museum of Natural History. No known individual was identified. No associated funerary objects are present.

In 1961, human remains representing a minimum of one individual were removed from site 42BO76 in or near the Great Salt Lake, Box Elder County, UT. The human remains are curated by the Utah Museum of Natural History. No known individual was identified. No associated funerary objects are present.

The above two individuals from Box Elder County, UT, are classified as Great Salt Lake Fremont based on inferences from physical anthropology, archeology, and location.

Detailed information about the cultural items, their identification as Great Salt Lake and Uinta Fremont, and the lines of evidence for cultural affiliation, is on file at the Bureau of Reclamation, Upper Colorado Regional Office, Salt Lake City, UT. Additional human remains and associated funerary objects removed from sites in Box Elder and Uintah Counties, as well as Weber County, after November 16, 1990 have also been identified as Great Salt Lake and Uinta Fremont and will be described in a Notice of Intended Disposition to be published by the Bureau of Reclamation, Upper Colorado Regional Office in a newspaper of general circulation, pursuant to 43 C.R.F. 10.6 (c).

While craniometric analysis indicates that the Great Salt Lake Fremont and Uinta Fremont were two biologically distinct populations, comparison of basketry and other material culture associated with sites from the two traditions evidences a similar pattern of material cultural manufacture and distribution methods sufficient to identify a single earlier group for purposes of determining cultural affiliation. This earlier group is identified as the Northern Fremont.

Craniometric analysis shows the closest biological relationship is between the Northern Fremont and the Zuni Tribe of the Zuni Reservation, New Mexico. Officials of the Bureau of Reclamation, Upper Colorado Regional Office and the Utah Division of Parks and Recreation find the preponderance of the evidence for cultural affiliation with the Northern Fremont to be with the Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the Bureau of Reclamation, Upper Colorado Regional Office and Utah Division of Parks and Recreation have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 34 individuals of Native American ancestry. Officials of the Bureau of Reclamation and Utah Division of Parks and Recreation also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the three funerary objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Reclamation and Utah Division of Parks and Recreation have determined that pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Nancy Coulam, Reclamation, 125 South State Street, Room 6103, Salt Lake City, UT 84138–1147, telephone (801) 524–3684, before March 26, 2008. Repatriation of the human remains and associated funerary objects to the Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Bureau of Reclamation, Upper Colorado Regional Office is responsible for notifying the Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Northwestern Band of Shoshoni Nation of Utah; Paiute Indian Tribe of Utah; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Zia, New Mexico; Skull Valley Band of Goshute Indians of Utah; and the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah that this notice has been published.

Dated: January 22, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–3452 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before February 9, 2008. Pursuant to § 60.13 of 36 CFR Part 60

written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by March 11, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

INDIANA

Delaware County

West Washington Street Bridge, W. Washington St. over W. fork of White R., Muncie, 08000187.

Floyd County

Cedar Bough Place Historic District, 800 blk. of Cedar Bough Pl., New Albany, 08000188.

DePauw Avenue Historic District, Roughly DePauw Ave. from Vincennes St. to Abersold Dr.; 1200 blk. of Beechwood Ave.; 1211 & 1214 Vance St., New Albany, 08000189.

Shelby Place Historic District, 1500 & 1600 blks. of Shelby Pl., New Albany, 08000190.

Fountain County

Fountain County Courthouse, 301 4th St., Covington, 08000191.

Hamilton County

Strawtown Enclosure, Address Restricted, Noblesville, 08000192.

Marion County

Indianapolis Masonic Temple, 525 N. Illinois Ave., Indianapolis, 08000193.

Miami County

Miami County Courthouse, Public Square, Peru, 08000194.

Warren County

Warren County Courthouse, 125 Monroe St., Williamsport, 08000195.

MISSISSIPPI

Coahoma County

Bobo Senior High School Building, 131 School St., Clarksdale, 08000196.

Hinds County

Liberty Hall, 22822 MS 27, Crystal Springs, 08000197.

Lauderdale County

Simmons & Wright Company, The, 5493 U.S. 11–80, Kewanee, 08000198.

Madison County

Fairview School, 1278 N. Old Canton Rd., Canton, 08000199.

VIRGINIA

Amherst County

Edgewood, 591 Puppy Cr. Rd., Amherst, 08000200.

WISCONSIN

Polk County

First Baptist Church, 201 3rd Ave., Osceola, 08000201.

[FR Doc. E8–3428 Filed 2–22–08; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Recreation Visitor Use Surveys, Bureau of Reclamation, 17 Western States. The ICR describes the nature of the information collection and its expected cost burden.

DATES: OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment must be received on or before March 26, 2008.

ADDRESSES: Please send your comments to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov*. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: Darrell Welch (84–53000), PO Box 25007, Denver, CO 80225–0007 or directed via e-mail to *dwelch@do.usbr.gov.* Please reference OMB No. 1006–NEW in your comments.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed forms contact Darrell Welch at the above address, or at (303) 445–2711.

SUPPLEMENTARY INFORMATION:

Title: Recreation Visitor Use Surveys.

Abstract: The Bureau of Reclamation is responsible for recreation development at all of its reservoirs. Presently there are 300 designated recreation areas on our lands within the 17 Western States hosting almost 90 million visitors annually. Visitation to our reservoirs is increasing at an average rate of 1.2 million visitors per year, and more than 100 million people are projected to visit our reservoirs by the early twenty-first century. We must be able to respond to emerging trends, changes in the demographic profile of users, changing values, needs, wants, and desires, and conflicts between user groups. Statistically valid and up-to-date data derived from the user is essential to developing and providing recreation programs relevant to today's visitor.

The required 60-day comment period was initiated by a notice published in the **Federal Register** on March 5, 2007 (72 FR 9775). No comments were received in response to the 60-day comment period.

Frequency: One time survey.

Respondents: Respondents to the surveys will be members of the public engaged in recreational activities on our lands. The surveys target people engaged in specific activities such as boating on a specific lake/river, or people camping at a developed campground. Visitors will primarily consist of local residents, people from large metropolitan areas in the vicinity of the lake/river, and visitors from out of state.

Estimated Total Number of Respondents: 7,350.

Estimated Number of Responses per Respondent: 1.0.

Estimated Total Number of Annual Responses: 7,350.

Estimate Total Annual Burden on Respondents: 2,059.

ESTIMATE OF HOUR BURDEN FOR EACH SURVEY FORM

Survey instrument	Burden estimate per survey (in minutes)	Number of surveys (times/yr.)	Number of respondents per survey	Total estimated number of respondents	Total annual hour burden
Marina Survey	15	2	278	556	139
Campground Survey	25	2	278	556	232
River Instream Flow Survey	20	2	278	556	185

ESTIMATE OF HOUR BURDEN FOR EACH SURVEY FORM—Continued

Survey instrument	Burden estimate per survey (in minutes)	Number of surveys (times/yr.)	Number of respondents per survey	Total estimated number of respondents	Total annual hour burden
Reservoir Preferred Water Level Survey	20	2	278	556	185
Lake/River Visit Expenditure Survey	10	2	278	556	93
Recreation Activities Survey	20	2	278	556	185
Recreation Management Survey	15	2	278	556	139
Recreation Fee Survey	10	1	400	400	67
Recreation Development Survey	10	2	278	556	93
Water Level Impacts on Recreation Boating Use	15	2	278	556	139
River Recreation Quality Survey	15	2	278	556	139
Customized Surveys	20	5	278	1,390	463
Totals				7,350	2,059

In addition to calculating the annual hour burden for respondents, we have calculated that the annual hour burden for the estimated 1,850 non-respondents (i.e., those individuals who receive a survey, but do not wish to fill it out for one reason or another) is 15 hours. Therefore, the total annual hour burden to the public is 2074.

Comments:

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the forms.

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

Dated: February 18, 2008.

Roseann Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. E8–3466 Filed 2–22–08; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–426 and 731–TA–984 and 985 (Review)]

Sulfanilic Acid From Hungary and Portugal

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in October 2007 to determine whether revocation of the countervailing duty order on sulfanilic acid from Hungary and the antidumping duty orders on sulfanilic acid from Hungary and Portugal would be likely to lead to continuation or recurrence of material injury. On February 8, 2008, the Department of Commerce published notice that it was revoking the orders effective November 8, 2007, ''{b}ecause the domestic interested party has withdrawn its participation and substantive responses in these sunset reviews * * * '' (73 FR 7527). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject reviews are terminated.

DATES: *Effective Date:* November 8, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

Issued: February 19, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3443 Filed 2–22–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Clean Diesel V

Notice is hereby given that, on January 10, 2008, pursuant to section 6(a) of the national Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Clean Diesel (''Clean Diesel V'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identifies of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: DAF Trucks, N.V., Einhoven, the Netherlands; Detroit Diesel Corporation, Detroit, MI; Eaton Corporation, Southfield, MI; Emitec, Lohmar, Germany; Exxon Mobil Corporation, Paulsboro, NJ; HILITE International, Cleveland, OH; Hitachi Automotive

Systems, Advanced Technical Center, Ibaragi Prefecture, Japan; Jacobs Vehicle Systems, Bloomfield, CT; Komatsu/IPA, Tochigi-Ken, Japan; MAN Nutsfahrzeuge Aktiengesellschaft Geschaftseinheit Motoren, Nurnberg, Germany; NGK Insulators, Nagoya City, Japan; Usui Kokusai Sangyo Kaisha, Ltd., Shizuoka-ken, Japan; Valeo, Cedex, France and Woodward Governor Company, Loveland, CO.

The general area of planned activities of Clean diesel V is to achieve NO_X and HC level of 0.2g/hp-hr, PM level of 0.01g/hp-hr and NMHC of 0.14 g/hp-hr over the U.S. transient heavy-duty test cycle and develop pre-competitive diesel engine technology through the investigation of the following technologies: Advanced low temperature combustion, advanced exhaust aftertreatment technology development, advanced fuels and lubricant formulations and advanced system controls. The goals are to maintain the fuel economy, CO_2 emissions, and specific engine power output comparable to the best 2007 engines. European and Japanese test cycles, as well as off-highway and light-duty test cycles will be included in evaluation of the developed technologies.

Membership in this research group remains open, and the participants intend to file additional written notification disclosing all changes in membership or planned activities.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 08–806 Filed 2–22–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Global Climate and Energy Project

Notice is hereby given that, on January 23, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Global Climate and Energy Project (''GCEP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the members of GCEP have, as of December 1, 2007, amended the agreement between them to extend the termination of the Project, which currently will terminate August 31, 2010.

No other changes have been made in either the membership or planned activity of the group research project, and GCEP intends to file additional written notifications disclosing all changes in membership.

On March 12, 2003, GCEP filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 4, 2003 (68 FR 16552).

The last notification was filed with the Department on March 21, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 7, 2007 (72 FR 25781).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 08–805 Filed 2–22–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Institute of Electrical and Electronics Engineers

Notice is hereby given that, on January 11, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Institute of Electrical and Electronics Engineers (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 31 new standards have been initiated and 23 existing standards are being revised. More details regarding these changes can be found at: *http://standards.ieee.org/standardswire/sba/08-22-07.html*, *http://standards.ieee.org/standardswire/sba/09-27-07.html* and *http://standards.ieee.org/standardswire/sba/12-05-07.html*.

On September 17, 2004, IEEE filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on March 27, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 27, 2007 (72 FR 25781).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 08–802 Filed 2–22–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—LiMo Foundation

Notice is hereby given that, on January 15, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), LiMo Foundation (''LiMo'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ETRI Embedded S/W Technology, Daejon, Republic of Korea has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of this group research project. Membership in this group research project remains open, and LiMo intends to file additional written notifications disclosing all changes in membership.

On March 1, 2007, LiMo filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 9, 2007 (72 FR 17583).

The last notification was filed with the Department on October 3, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 7, 2007 (72 FR 51841).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 08–803 Filed 2–22–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on January 8, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advantech, Shing-Tien City, Taipei, Taiwan; United Electronic Industries, Inc., Walpole, MA; ELMA Electronic Inc., Fremont, CA; Corelis, Cerritos, CA; Advanced Integration LLC, Columbus, OH; Mindready Solutions, Inc., Saint-Laurent, Quebec, Canada; Digalog Systems, Inc., New Berlin, WI; PLDA, Inc., Aix-en—Provence Cedex, France; and Signametrics, Seattle, WA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on October 29, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 20, 2007 (72 FR 72388).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 08–804 Filed 2–22–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0024]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review Reports of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 241, page 71435 on December 17, 2007, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until March 26, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Reports of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:*

Form Number:

Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Persons handling listed chemicals and tableting and encapsulating machines are required to report thefts, losses and suspicious orders pertaining to these items. These reports provide DEA with information regarding possible diversion to illicit drug manufacture.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: DEA estimates that 2,000 persons respond as needed to this collection. Responses take 15 minutes.

(6) An estimate of the total public burden (in hours) associated with the collection: DEA estimates that this collection takes 500 annual burden hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 19, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E8–3471 Filed 2–22–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 19, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: John Kraemer, OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not a toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection

Title of Collection: Standard on the Control of Hazardous Energy (Lockout/Tagout) (29 CFR 1910.147).

OMB Control Number: 1218–0150.

Agency Form Number: None.

Affected Public: Private sector: Business or other for-profit.

Estimated Number of Respondents: 769,748.

Estimated Total Annual Burden Hours: 3,013,603.

Estimated Total Annual Costs Burden: $0.

Description: The collections of information contained in 29 CFR 1910.147 are needed to reduce injuries and deaths in the workplace that occur when employees are engaged in maintenance, repair, and other service related activities requiring the control of potentially hazardous energy. For additional information, see related notice published at 72 FR 61378 on October 30, 2007.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–3445 Filed 2–22–08; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (08–018)]

National Environmental Policy Act; Space Shuttle Program

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the Draft Programmatic Environmental Assessment (PEA) for Space Shuttle Program (SSP) transition and property disposal.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), NASA's NEPA policy and procedures (14 CFR Part 1216, Subpart 1216.3), and Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, NASA has prepared and issued a Draft PEA for proposed Space Shuttle Program transition and property disposal activities to assist in the NASA decision making process. The Proposed Action is to implement a structured process for the disposition of the SSP real and personal property consisting of a coordinated series of actions. The focus of the SSP Transition and Property Disposal activity is to evaluate SSP real and personal property in accordance with NASA Procedural Requirements (NPR) 8800.15, ''Real Estate Management Program Implementation Manual,'' and NPR 4300.1, ''NASA Personal Property Disposal Procedural Requirements,'' to select the best option for disposition. The only alternative to the Proposed Action discussed in detail is the No Action Alternative where disposition of SSP property would be unplanned rather than being accomplished in a systematic and orderly process. At a minimum, NASA would reduce maintenance to levels consistent with Federal Government standards for excess and surplus properties (*i.e.*, 41 CFR 101–47.401 and 101–47.4913).

DATES: Interested parties are invited to submit comments on environmental issues and concerns, preferably in writing, on or before March 28, 2008, or 30 days from the date of publication in the **Federal Register** of this notice, whichever is later.

ADDRESSES: Comments submitted via first class, registered, or certified mail should be addressed to AS10/Environmental NEPA Coordinator, SSP Transition & Retirement Program, NASA Marshall Space Fight Center, Building 4249/100C, MSFC, Alabama 35812. While hard copy comments are preferred, comments may be submitted via electronic mail to: *nasa-sspea@mail.nasa.gov.*

The Draft PEA may be reviewed at the following location:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street, SW., Washington, DC 20546–0001 (202–358–0168).

It also may be examined at the following locations by contacting the pertinent Freedom of Information Act Office:

(b) NASA, George C. Marshall Space Flight Center, Huntsville, AL 35812 (256–544–1837); and

(c) NASA, John F. Kennedy Space Center, FL 32899 (321–867–2745).

Hard copies of the Draft PEA also may be viewed at other NASA Centers (see **SUPPLEMENTARY INFORMATION** below).

Limited hard copies of the Draft PEA are available, on a first request basis, by contacting Donna L. Holland at the address or telephone number indicated herein. The Draft PEA will be available for public review online at the following address: *http://www.hq.nasa.gov/osf/relatedlinks.htm.*

FOR FURTHER INFORMATION CONTACT: AS10/Environmental Engineering and Occupational Health Office, SSP Transition and Property Disposal, Marshall Space Flight Center, Building 4249/100C, Marshall Space Flight Center, AL 35812, 1–256–544–7201, or electronic mail at *Donna.L.Holland@nasa.gov*.

SUPPLEMENTARY INFORMATION: The SSP is an extremely large and complex program spanning decades and requiring the efforts of a broad spectrum of talent located throughout NASA and many commercial entities. On January 14, 2004, President George W. Bush presented a new U.S. Space Exploration Policy to the nation. In the announcement, the President directed NASA to use the Space Shuttle to fulfill its obligation to complete assembly of the International Space Station and then to retire the Space Shuttle in 2010. Consequently, SSP Transition and Retirement is being proposed as a structured process for the disposition of SSP real and personal property consisting of a coordinated series of actions. SSP real and personal property would be evaluated in accordance with NPR 8800.15, ''Real Estate Management Program Implementation Manual,'' and NPR 4300.1, ''NASA Personal Property Disposal Procedural Requirements,'' to select the best option for disposal. The Draft SSP PEA addresses the environmental impacts associated with implementing a series of actions in the structured process for disposition of SSP real and personal property.

For the purpose of real and personal property disposition, the overall goals of SSP Transition and Retirement are to methodically assess the SSP assets and provide for their disposition in a manner that fully realizes any remaining value of those assets, and to ensure that the actions taken by NASA comply with applicable federal, state and local laws and regulations. The primary decision to be made by NASA, supported by information contained in the PEA, is the manner of disposition of the SSP assets. NASA has applied a systematic and interdisciplinary approach to ensure that the environmental resources at each site were analyzed and potential issues identified for the disposition of SSP-related real and personal property. Shuttle-related personal property includes hundreds of thousands of items ranging from common parts to complex tooling and flight hardware. The disposition of common parts would have no potential for significant impacts to the environment and is not analyzed in the PEA. Personal property, such as complex tooling and flight hardware, may have the potential to adversely affect the environment and is analyzed in the PEA. The environmental impacts of principal concern are those that would result from disposition of Historic Resources. As the SSP approaches the end of its mission, a variety of buildings and facilities at several NASA installations will be modified for other NASA Programs or will no longer be of use to NASA. For any SSP building or facility no longer needed by NASA, NASA will initiate the standard process for addressing excess infrastructure. NASA will conduct any additional NEPA analysis, as necessary and appropriate, before final decisions on the disposition of SSP infrastructure are made. If any such SSP assets are listed or eligible for listing in the National Register of Historic Places, NASA will take no action that would affect any such property until the National Historic Preservation Act Section 106 process is complete.

Under NASA's Proposed Action, SSP transition and property disposal activities would be expected to occur at the following NASA sites:

—Dryden Flight Research Center, Edwards Air Force Base, California
—George C. Marshall Space Flight Center, Huntsville, Alabama
—John F. Kennedy Space Center, Brevard County, Florida
—John C. Stennis Space Center, Hancock County, Mississippi
—Johnson Space Center El Paso Forward Operating Location, El Paso, Texas
—Johnson Space Center Ellington Field, Houston, Texas
—Johnson Space Center White Sands Test Facility (and the U.S. Army's White Sands Missile Range), Las Cruces, New Mexico
—Lyndon B. Johnson Space Center, Houston, Texas
—Langley Research Center, Hampton, Virginia
—Michoud Assembly Facility, New Orleans, Louisiana

The Draft PEA may be viewed at the following NASA locations by contacting the pertinent Freedom of Information Act Office or by telephoning:

(a) NASA, Ames Research Center, Moffett Field, CA 94035 (650–604–3273);

(b) NASA, Dryden Flight Research Center, Edwards, CA 93523 (661–276–2704);

(c) NASA, Glenn Research Center at Lewis Field, Cleveland, OH 44135 (1–866–404–3642);

(d) NASA, Goddard Space Flight Center, Greenbelt, MD 20771 (301–286–4721);

(e) NASA, John C. Stennis Space Center, MS 39529 (228–688–2118);

(f) NASA, Lyndon B. Johnson Space Center, Houston, TX 77058 (281–483–8612);

(g) NASA, Langley Research Center, Hampton, VA 23681 (757–864–2497);

(h) NASA, Michoud Assembly Facility, New Orleans, LA 70189 (504–257–2629); and

(i) NASA, White Sands Test Facility, Las Cruces, NM 88004 (505–524–5024).

In addition the Draft PEA may be examined at:

(j) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109.

Written public input and comments on alternatives and environmental issues and concerns associated with proposed SSP transition and property disposal activities are hereby requested.

Olga M. Dominguez,

Assistant Administrator for Infrastructure and Administration.

[FR Doc. E8–3405 Filed 2–22–08; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286; License Nos. DPR–26 and DPR–64]

Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Indian Point Nuclear Generating Unit Nos. 2 and 3; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated September 28, 2007, Mr. Sherwood Martinelli, representing Friends United for Sustainable Energy (Petitioner), has requested that the NRC (1) issue orders, effective immediately, to suspend the NRC licenses for the Indian Point Nuclear Generating Units 2 and 3 (Indian Point) until the new emergency notification siren system is fully approved by both the Federal Emergency Management Agency and the NRC and (2) fine Entergy Nuclear Operations (Entergy, or the licensee) $130,000 per day from the date of his petition (*i.e.*, September 28, 2007) until Entergy complies with the NRC's Confirmatory Order of January 31, 2006, which requires the licensee to install backup power for the Indian Point siren system. On January 24, 2008, the Petitioner amended the petition citing concerns with recently discovered corrosion on sirens for the new emergency notification system. In the amended petition, the Petitioner requested that the NRC (1) issue an

order to immediately place both Indian Point Unit Nos. 2 and 3 in Cold Shutdown, (2) suspend Entergy's license to operate Indian Point Unit Nos. 2 and 3 until such time as they are in full compliance with their design basis threat, current licensing basis, and all NRC rules and regulations, and (3) fine Entergy on a daily basis for no less than $500,000 until such time as the sirens have been fully approved by all levels of government.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation (NRR). On November 1 and December 19, 2007, the Petitioner was informed in telephone calls that the request for immediate action for the original petition was denied. In addition, on January 30, 2008, the Petitioner was informed by electronic transmission that the request for immediate action for the amended petition was also denied. The Petitioner participated in a conference call with the NRR Petition Review Board (PRB) on December 21, 2007, to discuss the petition. The additional information provided by the Petitioner was considered by the PRB before making its final recommendation. By letter dated February 12, 2008, the Director accepted for review, pursuant to 10 CFR 2.206, the Petitioner's concerns regarding (1) the licensee's failure to implement the new emergency notification siren system in a timely manner and (2) the recently identified corrosion found on sirens for the new emergency notification system. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time.

A copy of the petition and addenda can be located at Agencywide Documents Access and Management Systems Accession Nos. ML072760602 and ML080250075, respectively, and are available for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Dated at Rockville, Maryland this 12th day of February 2008.

For the Nuclear Regulatory Commission.

J. E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E8–3472 Filed 2–22–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–395]

South Carolina Electric & Gas Company,Virgil C. Summer Nuclear Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations,* Part 50, (10 CFR), Section 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' (10 CFR 50.46) and 10 CFR Part 50, Appendix K, ''ECCS Evaluation Models,'' (Appendix K) for the Renewed Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company (SCE&G, the licensee), for operation of the Virgil C. Summer Nuclear Station (VCSNS), located in Fairfield County, South Carolina. Therefore, as specified in 10 CFR 51.21, the NRC has performed an environmental assessment as described in this notice and has made a finding of no significant impact.

The action proposed by the licensee also included a request for an exemption from 10 CFR 50.44, ''Combustible gas control for nuclear power reactors,'' (10 CFR 50.44). The proposed exemption from 10 CFR 50.44 is not being considered further by the NRC staff because revisions to 10 CFR 50.44 (68 FR 54123, dated September 16, 2003), such that it does not refer to specific types of zirconium cladding, remove the need for such an exemption.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow a third cycle of irradiation (i.e., burnup) for one lead test assembly (LTA) containing fuel rods with advanced cladding alloys. This third cycle of irradiation is expected to begin in the Cycle 18 core for VCSNS in the spring of 2008. An exemption previously issued by the NRC on January 14, 2005, authorized the use of four LTAs up to a lead rod average burnup limit of 62,000 megawatt days per metric ton uranium (MWd/MTU). The cladding in two of those four LTAs is entirely Optimized ZIRLO™ cladding. Each of the other two LTAs uses sixteen fuel rods with AXIOM™ cladding with the remainder of the rods using Optimized ZIRLO™ cladding. Based upon the results of examinations of these four LTAs during the VCSNS Cycle 17/18 refueling outage, the licensee may select either one of the Optimized ZIRLO™ LTAs or one of the LTAs containing both Optimized ZIRLO™ plus AXIOM™ cladding for the third cycle of irradiation. The third cycle of irradiation is expected to take the LTA from a burnup of about 55,000 up to 75,000 MWd/MTU. The burnup limits are not part of the technical specifications (TS), but are design bases limits, and limit the current fuel rod-average burnup to less than or equal to 62,000 MWd/MTU. The proposed action is in accordance with the licensee's application dated May 31, 2007, as supplemented by letter dated October 11, 2007. Also, information in the licensee's letters dated September 3 and November 11, 2004, that supported the exemption previously issued on January 14, 2005, has been considered in this action.

The Need for the Proposed Action

As the licensee states in its letter dated September 3, 2004, ''As the nuclear industry pursues longer operating cycles with increased fuel discharge burnups and more aggressive fuel management, corrosion performance requirements for nuclear fuel cladding become more demanding. In addition, fuel rod internal pressures (resulting from increased fuel duty, use of integral fuel burnable absorbers (IFBAs) and corrosion/temperature feedback effects) have become more limiting with respect to fuel rod design criteria. Available industry data [* * *] indicate the corrosion resistance improves for cladding with a lower tin content,'' and ''In addition, developmental testing has shown that small additions of some alloying elements will further improve the corrosion resistance, microstructure and mechanical properties of the cladding,'' and ''To meet these needs, Westinghouse Electric Company has developed a lead test assembly program in cooperation with the V.C. Summer Nuclear Station. One element of the program is use of Optimized ZIRLO™ cladding [* * *]'' and another element of the program is the use of LTAs with AXIOM™ cladding.

As the licensee states in its application, 10 CFR 50.46 specifically refers to fuel with Zircaloy or ZIRLO™ cladding and does not include Optimized ZIRLO™ or AXIOM™ cladding. Appendix K, paragraph I.A.5, references an analysis that utilizes the Baker-Just equation which assumes use of a zirconium alloy different than the Optimized ZIRLO™ or AXIOM™ cladding used in the LTAs. Therefore, the exemption is needed because the NRC regulations identified above specifically refer to light-water reactors

containing fuel consisting of uranium oxide pellets enclosed in zircaloy or ZIRLO™ cladding and the newer zirconium-based alloys of Optimized ZIRLO™ and AXIOM™ are not specifically of the same composition as zircaloy or ZIRLO™. Therefore, the licensee needs an exemption to insert one of the four above-mentioned LTAs into the VCSNS reactor core for further irradiation.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the use of one fuel assembly using either all Optimized ZIRLO™ cladding or a combination of Optimized ZIRLO™ and AXIOM™ cladding for a third cycle of irradiation up to a burnup of 75,000 MWd/MTU. The following is a summary of the staff's evaluation:

In this environmental assessment, the NRC staff is also relying on the results of a study conducted for it by the Pacific Northwest National Laboratory (PNNL) entitled, ''Environmental Effects of Extending Fuel Burnup Above 60 GWd/MTU [gigawatt days per metric ton uranium],'' (NUREG/CR–6703, PNNL–13257, January 2001). Although the study evaluated the environmental impacts of high burnup fuel up to 75,000 MWd/MTU, certain aspects of the review were limited to evaluating the impacts of extended burnup up to 62,000 MWd/MTU because of the need for additional data about the effect of extended burn-up on gap-release fractions. During the study, all aspects of the fuel-cycle were considered, from mining, milling, conversion, enrichment and fabrication through normal reactor operation, transportation, waste management, and storage of spent fuel.

The staff has concluded that such changes would not adversely affect plant safety, and would have no adverse effect on the probability of any accident. For accidents that involve damage or melting of the fuel in the reactor core, fuel rod integrity has been shown to be unaffected by the extended burnup under consideration; therefore, the probability of an accident will not be affected. For accidents in which the core remains intact, the increased burnup may slightly change the mix of fission products that could be released in the event of a serious accident, however the staff concludes that the limited number of high burnup fuel rods in one LTA will not result in a significant change during core-wide events.

Accidents that involve the damage or melting of the fuel in the reactor core and spent-fuel handling accidents were also evaluated in NUREG/CR–6703. The accidents considered were a loss-of-coolant accident (LOCA), a steam generator tube rupture, and a fuel-handling accident.

For LOCAs, the amount of radionuclides that would be released from the core (1) is proportional to the amount of radionuclides in the core and (2) is not significantly affected by the gap-release fraction. The gap-release fraction is a small contributor to the amount of radionuclides available for release when the fuel is severely damaged. Any increase in the amount of some longer-lived radionuclides available for release from the single LTA (1) will be small and (2) will not result in a significant increase in the overall core inventory of radionuclides. Therefore, there would be no significant increase in the previously calculated dose from a LOCA and the dose would remain below regulatory limits.

The pressurized-water reactor steam generator tube rupture accident involves direct release of radioactive material from contaminated reactor coolant to the environment. No change is being requested by the licensee in the VCSNS TS pertaining to allowed cooling-water activity concentrations. The maximum coolant activity is regulated through TS that are independent of fuel burnup. Therefore, the gap-release fraction does not significantly affect the amount of radionuclides available for release during a steam generator tube rupture. Therefore, there would be no significant increase in the previously calculated dose from a steam generator tube rupture and the calculated dose would remain below regulatory limits.

The scenario postulated to evaluate potential fuel-handling accidents involves a direct release of gap activity to the environment. The assumptions regarding gap activity are based on guidance in Regulatory Guide 1.25, ''Assumptions Used for Evaluating the Potential Radiological Consequences of Fuel Handling Accidents in the Fuel Handling and Storage Facility for Boiling and Pressurized Water Reactors (Safety Guide 25)'' and NUREG/CR–5009, ''Assessment of the Use of Extended Burnup Fuel in Light Water Power Reactors,'' February 1988; the gap activity consists primarily of noble gases and iodine. The isotopes that contribute significant fractions of the whole body and thyroid doses are ^{87}Kr and ^{131}I, respectively. The inventory of iodine, the primary dose contributor, decreases with increasing burnup. In addition, the single LTA will only contribute a small variation in the isotopic population of the entire VCSNS core (157 assemblies).

The licensee assessed, in its letter dated October 11, 2007, the conservatisms associated with the spent fuel pool decontamination factor, the assembly relative power, the thyroid dose conversion factors, fuel offloading time, the reactor building purge isolation and the likely mechanical damage to a fuel assembly from the fuel handling accident. In summarizing these factors the licensee estimates that the calculated doses for the fuel handling accident would be reduced by approximately 77 percent. Based on the considerations discussed above, the staff concludes (1) that the increase in the previously calculated dose resulting from a fuel-handling accident involving the one LTA would not be significant and (2) that the dose would remain below regulatory limits.

Regulatory limits on radiological effluent releases are independent of burnup. The requirements of 10 CFR 50.36a and Appendix I to 10 CFR part 50 ensure that any release of gaseous, liquid, or solid radiological effluents to unrestricted areas are kept ''as low as reasonably achievable.'' Therefore, the staff concluded that during routine operations, there will be no significant increase in the amount of gaseous radiological effluents released into the environment as a result of the proposed action, nor will there be a significant increase in the amount of liquid radiological effluents or solid radiological effluents released into the environment.

No significant increase in the allowable individual or cumulative occupational radiation exposure will occur. The impacts to workers is expected to be reduced with higher irradiation due to the need for less frequent outages for fuel changes and less frequent fuel shipments to and from reactor sites.

The use of extended irradiation will not change the potential environmental impacts of incident-free transportation of spent nuclear fuel or the accident risks associated with spent fuel transportation if the fuel is cooled for 5 years after discharge from the reactor. The NUREG/CR–6703 report, concluded that doses associated with incident-free transportation of spent fuel with burnup to 75 GWd/MTU are bounded by the doses given in 10 CFR 51.52, Table S–4, for all regions of the country if dose rates from the shipping casks are maintained within regulatory limits. Increased fuel burnup will decrease the annual discharge of fuel to the spent fuel pool, which will postpone the need to remove spent fuel from the pool.

With regard to potential non-radiological environmental impacts of

reactor operation with extended irradiation, the proposed changes involve systems located within the restricted area as defined in 10 CFR part 20. Therefore, the proposed action does not result in any significant changes to land use or water use, or result in any significant changes to the quality or quantity of effluents. The proposed action does not affect nonradiological plant effluents, and no changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity or the plant, or to endangered or threatened species, or to the habitats of endangered or threatened species are expected. The proposed action does not have a potential to affect any historical or archaeological sites.

The proposed action will not change the method of generating electricity or the method of handling any influents from the environment or non-radiological effluents to the environment. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the amendments.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

For more detailed information regarding the environmental impacts of extended fuel burnup, please refer to the study conducted by PNNL for the NRC, which is entitled, ''Environmental Effects of Extending Fuel Burnup Above 60 GWd/MTU,'' (NUREG/CR–6703, PNL–13257, January 2001).

The details of the staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed amendment and this alternative are similar. However, it would deny to the licensee and the NRC operational data on Optimized ZIRLO™ and AXIOM™ LTAs and the performance of fuel at extended burnup conditions.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Virgil C. Summer Nuclear Station, NUREG–0719, dated May 1981, or in NUREG–1437, Supplement 15, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 15, Regarding Virgil C. Summer Nuclear Station.''

Agencies and Persons Consulted

In accordance with its stated policy, on December 31, 2007, the staff consulted with the South Carolina State official, R. Mike Gandy of the South Carolina Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated May 31, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML071550105), as supplemented on October 11, 2007 (ADAMS Accession No. ML072890083). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 1555 Rockville Pike, Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site: *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 12th day of February, 2008.

For the Nuclear Regulatory Commission.

Robert Martin,

Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–3486 Filed 2–22–08; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Multiemployer Plan Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) approve, under the Paperwork Reduction Act, collections of information in PBGC's regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's request and solicits public comment on the collections of information.

DATES: Comments should be submitted by March 26, 2008.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974.

Copies of the collection of information may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting the Disclosure Division or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) PBGC's regulations on multiemployer plans may be accessed on PBGC's Web site at *http://www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Donald F. McCabe, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved and issued control numbers for the collections of information, described below, in PBGC's regulations relating to multiemployer plans (OMB approvals expire March 31, 2008). The collections of information for

which PBGC is requesting extension of OMB approval are as follows:

1. Termination of Multiemployer Plans (29 CFR Part 4041A) (OMB Control Number 1212–0020)

Section 4041A(f)(2) of ERISA authorizes PBGC to prescribe reporting requirements for and other ''rules and standards for the administration of'' terminated multiemployer plans. Section 4041A(c) and (f)(1) of ERISA prohibit the payment by a mass-withdrawal-terminated plan of lump sums greater than $1,750 or of nonvested plan benefits unless authorized by PBGC.

The regulation requires the plan sponsor of a terminated plan to submit a notice of termination to PBGC. It also requires the plan sponsor of a mass-withdrawal-terminated plan that is closing out to give notices to participants regarding the election of alternative forms of benefit distribution and, if the plan is not closing out, to obtain PBGC approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits.

PBGC uses the information in a notice of termination to assess the likelihood that PBGC financial assistance will be needed. Plan participants and beneficiaries use the information on alternative forms of benefit to make personal financial decisions. PBGC uses the information in an application for approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits to determine whether such payments should be permitted.

PBGC estimates that plan sponsors each year (1) submit notices of termination for 10 plans, (2) distribute election notices to participants in 5 of those plans, and (3) submit requests to pay benefits or benefit forms not otherwise permitted for 1 of those plans. The estimated annual burden of the collection of information is 19.2 hours and $16,363.

2. Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB Control Number 1212–0023)

Sections 4203(f) and 4208(e)(3) of ERISA allow PBGC to permit a multiemployer plan to adopt special rules for determining whether a withdrawal from the plan has occurred, subject to PBGC approval.

The regulation specifies the information that a plan that adopts special rules must submit to PBGC about the rules, the plan, and the industry in which the plan operates. PBGC uses the information to determine whether the rules are appropriate for the industry in which the plan functions and do not pose a significant risk to the insurance system.

PBGC estimates that at most 1 plan sponsor submits a request each year under this regulation. The estimated annual burden of the collection of information is 1 hour and $5,600.

3. Variances for Sale of Assets (29 CFR Part 4204) (OMB Control Number 1212–0021)

If an employer's covered operations or contribution obligation under a plan ceases, the employer must generally pay withdrawal liability to the plan. Section 4204 of ERISA provides an exception, under certain conditions, where the cessation results from a sale of assets. Among other things, the buyer must furnish a bond or escrow, and the sale contract must provide for secondary liability of the seller.

The regulation establishes general variances (rules for avoiding the bond/escrow and sale-contract requirements) and authorizes plans to determine whether the variances apply in particular cases. It also allows buyers and sellers to request individual variances from PBGC. Plans and PBGC use the information to determine whether employers qualify for variances.

PBGC estimates that each year, 11 employers submit, and 11 plans respond to, variance requests under the regulation, and 2 employers submit variance requests to PBGC. The estimated annual burden of the collection of information is 2.75 hours and $6,213.

4. Reduction or Waiver of Complete Withdrawal Liability (29 CFR Part 4207) (OMB Control Number 1212–0044)

Section 4207 of ERISA allows PBGC to provide for abatement of an employer's complete withdrawal liability, and for plan adoption of alternative abatement rules, where appropriate.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, 100 employers submit, and 100 plans respond to, applications for abatement of complete withdrawal liability, and 1 plan sponsor requests approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 25.5 hours and $35,000.

5. Reduction or Waiver of Partial Withdrawal Liability (29 CFR Part 4208) (OMB Control Number 1212–0039)

Section 4208 of ERISA provides for abatement, in certain circumstances, of an employer's partial withdrawal liability and authorizes PBGC to issue additional partial withdrawal liability abatement rules.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, 1,000 employers submit, and 1,000 plans respond to, applications for abatement of partial withdrawal liability and 1 plan sponsor requests approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 250.5 hours and $350,000.

6. Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR Part 4211) (OMB Control Number 1212–0035)

Section 4211(c)(5)(A) of ERISA requires PBGC to prescribe how plans can, with PBGC approval, change the way they allocate unfunded vested benefits to withdrawing employers for purposes of calculating withdrawal liability.

The regulation prescribes the information that must be submitted to PBGC by a plan seeking such approval. PBGC uses the information to determine how the amendment changes the way the plan allocates unfunded vested

benefits and how it will affect the risk of loss to plan participants and PBGC.

PBGC estimates that 7 plan sponsors submit approval requests each year under this regulation. The estimated annual burden of the collection of information is 14 hours.

7. Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR Part 4219) (OMB Control Number 1212–0034)

Section 4219(c)(1)(D) of ERISA requires that PBGC prescribe regulations for the allocation of a plan's total unfunded vested benefits in the event of a ''mass withdrawal.'' ERISA section 4209(c) deals with an employer's liability for de minimis amounts if the employer withdraws in a ''substantial withdrawal.''

The reporting requirements in the regulation give employers notice of a mass withdrawal or substantial withdrawal and advise them of their rights and liabilities. They also provide notice to PBGC so that it can monitor the plan, and they help PBGC assess the possible impact of a withdrawal event on participants and the multiemployer plan insurance program.

PBGC estimates that there is at most 1 mass withdrawal and 1 substantial withdrawal per year. The plan sponsor of a plan subject to a withdrawal covered by the regulation provides notices of the withdrawal to PBGC and to employers covered by the plan, liability assessments to the employers, and a certification to PBGC that assessments have been made. (For a mass withdrawal, there are 2 assessments and 2 certifications that deal with 2 different types of liability. For a substantial withdrawal, there is 1 assessment and 1 certification (combined with the withdrawal notice to PBGC).) The estimated annual burden of the collection of information is 4 hours and $9,095.

8. Procedures for PBGC Approval of Plan Amendments (29 CFR Part 4220) (OMB Control Number 1212–0031)

Under section 4220 of ERISA, a plan may within certain limits adopt special plan rules regarding when a withdrawal from the plan occurs and how the withdrawing employer's withdrawal liability is determined. Any such special rule is effective only if, within 90 days after receiving notice and a copy of the rule, PBGC either approves or fails to disapprove the rule.

The regulation provides rules for requesting PBGC's approval of an amendment. PBGC needs the required information to identify the plan, evaluate the risk of loss, if any, posed by the plan amendment, and determine whether to approve or disapprove the amendment.

PBGC estimates that 3 plan sponsors submit approval requests per year under this regulation. The estimated annual burden of the collection of information is 1.5 hours.

9. Mergers and Transfers Between Multiemployer Plans (29 CFR Part 4231) (OMB Control Number 1212–0022)

Section 4231(a) and (b) of ERISA requires plans that are involved in a merger or transfer to give PBGC 120 days' notice of the transaction and provides that if PBGC determines that specified requirements are satisfied, the transaction will be deemed not to be in violation of ERISA section 406(a) or (b)(2) (dealing with prohibited transactions).

This regulation sets forth the procedures for giving notice of a merger or transfer under section 4231 and for requesting a determination that a transaction complies with section 4231.

PBGC uses information submitted by plan sponsors under the regulation to determine whether mergers and transfers conform to the requirements of ERISA section 4231 and the regulation.

PBGC estimates that there are 35 transactions each year for which plan sponsors submit notices and approval requests under this regulation. The estimated annual burden of the collection of information is 8.75 hours and $9,756.

10. Notice of Insolvency (29 CFR Part 4245) (OMB Control Number 1212–0033)

If the plan sponsor of a plan in reorganization under ERISA section 4241 determines that the plan may become insolvent, ERISA section 4245(e) requires the plan sponsor to give a ''notice of insolvency'' to PBGC, contributing employers, and plan participants and their unions in accordance with PBGC rules.

For each insolvency year under ERISA section 4245(b)(4), ERISA section 4245(e) also requires the plan sponsor to give a ''notice of insolvency benefit level'' to the same parties.

This regulation establishes the procedure for giving these notices. PBGC uses the information submitted to estimate cash needs for financial assistance to troubled plans. Employers and unions use the information to decide whether additional plan contributions will be made to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information in personal financial decisions.

PBGC estimates that 1 plan sponsor of an ongoing plan gives notices each year under this regulation. The estimated annual burden of the collection of information is 1 hour and $4,741.

11. Duties of Plan Sponsor Following Mass Withdrawal (29 CFR Part 4281) (OMB Control Number 1212–0032)

Section 4281 of ERISA provides rules for plans that have terminated by mass withdrawal. Under section 4281, if nonforfeitable benefits exceed plan assets, the plan sponsor must amend the plan to reduce benefits. If the plan nevertheless becomes insolvent, the plan sponsor must suspend certain benefits that cannot be paid. If available resources are inadequate to pay guaranteed benefits, the plan sponsor must request financial assistance from PBGC.

The regulation requires a plan sponsor to give notices of benefit reduction, notices of insolvency and annual updates, and notices of insolvency benefit level to PBGC and to participants and beneficiaries and, if necessary, to apply to PBGC for financial assistance.

PBGC uses the information it receives to make determinations required by ERISA, to identify and estimate the cash needed for financial assistance to terminated plans, and to verify the appropriateness of financial assistance payments. Plan participants and beneficiaries use the information to make personal financial decisions.

PBGC estimates that plan sponsors of terminated plans each year give benefit reduction notices for 2 plans and give notices of insolvency benefit level and annual updates, and submit requests for financial assistance, for 28 plans. Of those 28 plans, PBGC estimates that plan sponsors each year give notices of insolvency for 4 plans. The estimated annual burden of the collection of information is one hour and $701,574.

Issued in Washington, DC, this 14th day of February, 2008.

John H. Hanley,

Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. E8–3410 Filed 2–22–08; 8:45 am]

BILLING CODE 7709–01–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection: Certification of Termination of Service and Relinquishment of Rights: OMB 3220–0016. Under Section 2(e)(2) of the Railroad Retirement Act (RRA), an age and service annuity, spouse annuity, or divorced spouse annuity cannot be paid unless the Railroad Retirement Board (RRB) has evidence that the applicant has ceased railroad employment and relinquished rights to return to the service of a railroad employer. The procedure pertaining to the relinquishment of rights by an annuity applicant is prescribed in 20 CFR 216.24. Under Section 2(f)(6) of the RRA, earnings deductions are required each month an annuitant works in certain nonrailroad employment termed Last Pre-Retirement Non-Railroad Employment.

Normally, the employee, spouse, or divorced spouse relinquish rights and certify that employment has ended as part of the annuity application process. However, this is not always the case. In limited circumstances, the RRB utilizes Form G–88, *Certification of Termination of Service and Relinquishment of Rights*, to obtain an applicant's report of termination of employment and relinquishment of rights. One response is required of each respondent. Responses are required to obtain or retain benefits. The RRB proposes no changes to Form G–88.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form No.	Annual responses	Time (min)	Burden (hrs)
G–88	3,600	6	360

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–3468 Filed 2–22–08; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Availability for Work: OMB 3220–0164.

Under Section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day for which the claimant is not available for work.

Under Railroad Retirement Board (RRB) regulation 20 CFR 327.5, ''available for work'' is defined as being willing and ready for work. This section further provides that a person is ''willing'' to work if that person is willing to accept and perform for hire such work as is reasonably appropriate to his or her employment circumstances. The section also provides that a claimant is ''ready'' for work if he or she: (1) is in a position to receive notice of work and is willing to accept and perform such work, and (2) is prepared to be present with the customary equipment at the location of such work within the time usually allotted.

Under RRB regulation 20 CFR 327.15, a claimant may be requested at any time to show, as evidence of willingness to work, that he or she is making reasonable efforts to obtain work. In order to determine whether a claimant is: (a) available for work, and b) willing to work, the RRB utilizes Forms UI–38 and UI–38s to obtain information from the claimant and Form ID–8k from his union representative. One response is completed by each respondent. The RRB proposes minor non-burden impacting editorial changes to Form(s) UI–38, UI–38s and ID–8k.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form No.	Annual responses	Time (min)	Burden (hrs)
UI–38s:			
In person	250	6	25

Form No.	Annual responses	Time (min)	Burden (hrs)
By mail	500	10	83
UI–38	3,750	11.5	719
ID–8k	3,100	5	258
Total	7,600	.....	1,085

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–3474 Filed 2–22–08; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection:

Application for Reimbursement for Hospital Insurance Services in Canada; OMB 3220–0086. Under section 7(d) of the Railroad Retirement Act (RRA), the RRB administers the Medicare program for persons covered by the railroad retirement system. Payments are provided under section 7(d)4) of the RRA for medical services furnished in Canada to the same extent as for those furnished in the United States. However, payments for the services furnished in Canada are made from the Railroad Retirement Account rather than from the Federal Hospital Insurance Trust Fund, with the payments limited to the amount by which insurance benefits under Medicare exceed the amounts payable under Canadian Provincial plans.

Form AA–104, Application for Canadian Hospital Benefits Under Medicare—Part A, is provided by the RRB for use in claiming benefits for covered hospital services received in Canada. The form obtains information needed to determine eligibility for, and the amount of any reimbursement due the applicant. One response is requested of each respondent. Completion is required to obtain a benefit.

The RRB proposes non-burden impacting formatting and editorial changes to Form AA–104.

Number of respondents: 35

Estimated Completion Time: 10 minutes

Estimated annual burden hours: 6

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–3475 Filed 2–22–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57340; File No. SR–BSE–2007–54]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to the Imposition of Fines for Minor Rule Violations

February 15, 2008.

On December 20, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Boston Options Exchange (''BOX'') rules related to Contrary Exercise Advice violations. On January 7, 2008, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On January 10, 2008, the Exchange withdrew Amendment No. 1 and simultaneously filed Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on January 14, 2008.[5] The Commission received no comments regarding the proposal. This order approves the proposed rule change as modified by Amendment No. 2.

The Exchange proposes to increase and strengthen the sanctions imposed under its Minor Rule Violation Plan (''MRVP'') on any member who fails to submit to the Exchange in a timely manner pursuant to BOX Rule Chapter X, Section 2(f), ''Contrary Exercise Advice Violations'' or exercise

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 revised the proposed rule text to clarify how fines for third and subsequent offenses are imposed.

[4] Amendment No. 2 retained the clarification (submitted in Amendment No. 1) regarding how fines for third and subsequent offenses are imposed and corrected a page numbering error. Therefore, Amendment No. 2 was technical in nature and therefore does not need to be published for comment.

[5] *See* Securities Exchange Act Release No. 57108 (January 7, 2008), 73 FR 2294.

instructions relating to the exercise or nonexercise of a noncash-settled equity option. The Exchange believes that increasing the fine levels specified with respect to both individual members and member organizations and lengthening the surveillance period from a 12-month period to a rolling 24-month period will serve as an effective deterrent to such violative conduct.[6]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[8] which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission further believes that the Exchange's proposal to increase the fine levels imposed on individuals and member organizations who fail to submit Advice Cancel or exercise instructions in a timely manner is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[9] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[10] which governs minor rule violation plans. The Commission believes that the proposed rule change should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of any SRO rules, as well as Commission rules, is a serious matter. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange would continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires formal disciplinary action.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[11] and Rule 19d–1(c)(2) under the Act,[12] that the proposed rule change (SR–BSE–2007–54), as modified by Amendment No. 2, e, and hereby is, approved and declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3444 Filed 2–22–08; 8:45 am]

BILLING CODE 8011–01–P

[6] In addition, as a member of the Intermarket Surveillance Group, the Exchange, as well as certain other self-regulatory organizations (''SROs''), executed and filed on October 29, 2007 with the Commission, a final version of an Agreement pursuant to Section 17(d) of the Act (the ''17d–2 Agreement''). As set forth in the 17d–2 Agreement, the SROs have agreed that their respective rules concerning the filing of Expiring Exercise Declarations, also referred to as Contrary Exercise Advices, are common rules. As a result, the proposal to amend the MRVP will result in further consistency in sanctions among the SROs that are signatories to the 17d–2 Agreement concerning Contrary Exercise Advice violations.

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[10] 17 CFR 240.19d–1(c)(2).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 240.19d–1(c)(2).

[13] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(44).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57352; File No. SR–CBOE–2008–07]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Requesting Permanent Approval of Two Pilot Programs That Increase Position and Exercise Limits

February 19, 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 February 6, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on February 13, 2008. This order provides notice of the proposed rule change as modified by Amendment No. 1 and approves the proposed rule change as amended on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange requests permanent approval of two pilot programs that increase position and exercise limits for equity options. The Exchange proposes to amend Rule 4.11, *Position Limits,* and Rule 4.12, *Exercise Limits,* to permanently establish the increased limits of the two pilot programs. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and *http://www.cboe.org/legal.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to request permanent approval of two pilot programs that increase position and exercise limits for equity options. The Exchange proposes to amend Rule 4.11, *Position Limits,* and Rule 4.12, *Exercise Limits,* to permanently establish the increased limits of the two pilot programs. Rule 4.11 subjects equity options to one of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19–4.

five different position limits depending on the trading volume and outstanding shares of the underlying security. Rule 4.12 establishes exercise limits for equity options at the same levels as the applicable position limits.[3]

The first pilot program, the ''Rule 4.11 Pilot Program,'' commenced on February 23, 2005, and provides for an increase to the standard (or ''non-pilot'') position and exercise limits for equity option contracts and for options on the PowerShares QQQ Trust (''QQQQ'').[4] Specifically, the Rule 4.11 Pilot Program increases the applicable position and exercise limits for equity options and QQQQ options as follows:

Standard equity option contract limit	Pilot Program equity option contract limit
13,500	25,000
22,500	50,000
31,500	75,000
60,000	200,000
75,000	250,000
Standard QQQQ option contract limit	**Pilot Program QQQQ option contract limit**
[5] 300,000	900,000

The [5] second pilot program, the ''iShares Russell 2000 Index Fund ('IWM') Option Pilot Program,'' commenced on January 22, 2007, and increases the position and exercise limits for IWM options from 250,000 contracts to 500,000 contracts.[6]

a. Standard Position and Exercise Limits

The standard position limits were last increased nine years ago, on December 31, 1998.[7] Since that time, there has been a steady increase in the number of accounts that: (a) Approach the position limit; (b) exceed the position limits; and (c) are granted an exemption to the applicable position limit. To illustrate CBOE's position on this matter, CBOE's Division of Market Regulation conducted a review of four incident categories involving position limits: (i) Violations; (ii) accounts near 10% of pilots' position limits; (iii) account positions and pilots' limits vs. standard limits; and (iv) exemptions granted.

(i) Violations

During the period of January 1, 2007 through January 1, 2008, when both pilot programs were in effect, the Exchange opened a total of 19 reviews regarding equity option position and exercise limits at the pilot levels, which led to findings of 7 violations. To the best of the staff's knowledge, all of these violations were deemed inadvertent—due primarily to miscounting, technical problems, or a misinterpretation of position limit calculation methodologies. None of these violations were deemed to be a result of manipulative activities.

(ii) Accounts Near 10% of Pilots' Position Limits

The Exchange utilizes a heightened surveillance technique to identify different types of accounts that are within 10% of the pilot position limit tiers. As of December 20, 2007, Exchange staff identified 36 accounts that were within 10% of the pilot position limit tiers. As illustrated below, the majority of the accounts were firm/market-maker accounts involving the 250,000 contract pilot position limit tier. The Exchange believes that members and large customers (*e.g.*, mutual funds, hedge funds, and pension funds) are utilizing the higher limits in their portfolios and transactions with the confidence that they will not exceed the limits.

Pilot position limit tier	LOPR [8] 10%	Firm/market-maker 10%	LOPR 10% in concert	LOPR/aggregated open interest 10% [9]
25,000	0	0	0	1
50,000	0	0	0	0
75,000	1	0	0	0
250,000	6	10	0	4
300,000	1	7	1	1
500,000	0	1	0	0

[3] Rule 4.12 states, ''no member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any option contract where such member or customer, acting alone or in concert with others, directly or indirectly, * * * has or will have exercised within any five consecutive business days aggregate long positions in any class of options dealth in on the Exchange in excess'' of the established limits set by the Exchange.

[4] The Rule 4.11 Pilot Program was approved by the Commission on February 23, 2005. *See* Securities Exchange Act Release No. 51244 (February 23, 2005), 70 FR 10010 (March 1, 2005) (order approving SR–CBOE–2003–30, as amended) (''Pilot Program Order''). The Rule 4.11 Pilot Program has been extended 5 times for 6 month periods by the Commission, and expires on March 1, 2008. *See* Securities Exchange Act Release No. 52262 (August 15, 2005), 70 FR 48995 (August 22, 2005) (SR–CBOE–2005–61), Securities Exchange Act Release No. 53348 (February 22, 2006), 71 FR 10574 (March 1, 2006) (SR–CBOE–2006–11), Securities Exchange Act Release No. 54336 (August 18, 2006), 71 FR 50952 (August 28, 2006) (SR–CBOE–2006–69), Securities Exchange Act Release No. 55266 (February 9, 2007), 72 FR 7698 (February 16, 2007) (SR–CBOE–2007–12), and Securities Exchange Act Release No. 56266 (August 15, 2007), 72 FR 47094 (August 22, 2007) (SR–CBOE–2007–97).

In connection with the March 21, 2007 transfer of sponsorship of the Nasdaq-100 Trust, the name of the trust was changed to the ''PowerShares QQQ Trust.'' *See* QQQQ prospectus available at *http://www.powershares.com/pdf/P-QQQ-PRO-1.pdf.*

[5] The standard position and exercise limits for QQQQ options are 300,000 contracts. *See* Securities Exchange Act Release No. 45309 (January 18, 2002), 67 FR 3757 (January 25, 2002) (SR–CBOE–2001–44). The standard position and exercise limits for options on DIA and SPY are also 300,000 contracts. *See* Securities Exchange Act Releases Nos. 47346 (February 11, 2003), 68 FR 8316 (February 20, 2003) (SR–CBOE–2002–26), 51041 (January 14, 2005), 70 FR 3408 (January 24, 2005) (SR–CBOE–2005–06).

[6] The IWM Option Pilot Program doubles the position and exercise limits for IWM options under the Rule 4.11 Pilot Program. Absent both of these pilot programs, the standard position and exercise limit for IWM options is 75,000 option contracts.

The proposal that established the IWM Option Pilot Program was designated by the Commission to be effective and operative upon filing. *See* Securities Exchange Act Release No. 55176 (January 25, 2007), 72 FR 4741 (February 1, 2007) (SR–CBOE–2007–08). The IWM Option Pilot Program has been extended twice by the Commission and expires on March 1, 2008. *See* Securities Exchange Act Release No. 55926 (June 20, 2007), 72 FR 35275 (June 27, 2007) (SR–CBOE–2007–61); Securities Exchange Act Release No. 57141, 73 FR 3496 (January 18, 2008) (SR–CBOE–2007–147).

[7] *See* Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (SR–CBOE–98–25).

Pilot position limit tier	LOPR[8] 10%	Firm/market-maker 10%	LOPR 10% in concert	LOPR/aggregated open interest 10%[9]
900,000	0	3	0	0
Total Accts	8	21	1	6

(iii) Account Positions and Pilots' Limits vs. Standard Limits

Exchange staff examined approximately 160 member/firm accounts and approximately 754 customer accounts, as of December 2007, and compared the current contract quantities to: (a) the Rule 4.11 and IWM Option Pilot Programs' position limits; and (b) the standard equity position limits. Without the increased position limits provided for by the Rule 4.11 and IWM Option Pilot Programs, virtually all of the customer accounts would be in violation of the standard position limits. The same, however, cannot be said of the member/firm accounts, as those accounts may utilize exemptions not available to customers. As a result, a significant amount of customers would be disadvantaged if the pilot programs' position limits levels are not made permanent.

(iv) Exemptions

Exchange staff examined position limit exemptions to the pilot position limit tiers as of December 20, 2007, and observed that among the various options exchanges, 53 exemptions to positions limits under the pilot position limit tiers were granted in equity option classes, the majority of which occurred in the 250,000 and 300,000 pilot tier levels.[10] In addition, seven exemptions to the position limit pilot tier of 500,000 contracts were granted in the IWM options class, which has a standard position limit of 75,000 contracts.

b. Growth in Options Market

Since the last position limit increase, there has been an exponential increase in the overall volume of exchange traded options. The below chart demonstrates the growth in options trading industry-wide between 1999 and 2007.

Year	Annual industry options trading volume
1999	508,000,000 contracts.
2000	727,000,000 contracts.
2001	782,000,000 contracts.
2002	780,000,000 contracts.
2003	908,000,000 contracts.
2004	1,182,000,000 contracts.
2005	1,504,000,000 contracts.
2006	2,028,000,000 contracts.
2007	2,863,000,000 contracts.

Part of this volume is attributable to a corresponding increase in the number of overall market participants. This growth in market participants has in turn brought about additional depth and increased liquidity in exchange traded options.

c. Manipulation

Since the last position limit increase, and throughout the duration of the two pilot programs, the Exchange has not encountered any regulatory issues regarding the applicable position limits, and states there is a lack of evidence of market manipulation schemes, which justifies the proposed permanent approval of the Rule 4.11 and IWM Option Pilot Programs.

The Exchange believes that position and exercise limits, at the non-pilot levels, no longer serve their stated purpose. The Commission has previously stated:

> Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[11]

As the anniversary of listed options trading approaches its 35th year, the Exchange believes that the existing surveillance procedures and reporting requirements at CBOE, at other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. In addition, routine oversight inspections of CBOE's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted relating to position and exercise limits. These procedures include daily monitoring of market movements via automated surveillance techniques to identify unusual activities in both options and underlying stocks and Exchange Traded Funds (''ETFs'').

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D and 13G. Options positions are part of any reportable positions, and thus cannot be legally hidden. The Exchange also requires that member organizations file reports with the Exchange for any customer who holds aggregate long or short positions on the same side of the market of 200 or more option contracts of any single class for the previous day.[12] In addition, the Exchange requires that firms and market-makers report their positions, and the Exchange has access, via The Options Clearing Corporation (''OCC''), to daily data with respect to these options positions. Finally, in granting firms' requests for exemptions or disaggregation within firm positions, CBOE and the other options markets require enhanced reporting-either directly to the granting exchange or through LOPR, as applicable. In sum, these reporting requirements will continue to serve as an important part of the Exchange's surveillance efforts.

Accordingly, the Exchange represents that its surveillance procedures (which have been significantly enhanced since the last position limit increase) and reporting procedures, in conjunction with the financial requirements and risk management review procedures already in place at the clearing firms and the OCC, will serve to adequately address any concerns the Commission may have with respect to account(s) engaging in any manipulative schemes or assuming too high a level of risk exposure.

d. Financial Requirements

The Exchange believes that the current financial requirements imposed

[8] Large Options Position Report (''LOPR'').

[9] The LOPR/Aggregated Open Interest 10% report aggregates positions of affiliated accounts (*i.e.*, those that clear in the customer range with those that clear in the firm proprietary and/or market-maker range), and reflects same side of the market positions that are within 10% of the applicable pilot position limit tiers.

[10] As to the 53 exemptions, the majority were granted prior to December 2007 and subsequently renewed.

[11] *See* Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR–CBOE–97–11).

[12] *See* Rule 4.13(a).

by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large unhedged position in an equity option. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by one account by increasing margin and/or capital that a member must maintain for a large position held by itself or by its customer. The Exchange also notes that it has the authority under Rule 12.3(h) and Rule 12.10 to impose higher margin requirements upon a member or member organization when the Exchange determines that higher requirements are required. Also, the Commission's net capital rule imposes a capital charge on members to the extent any margin deficiency results from the higher margin requirement.[13]

e. Inability To Compete; Retreat to OTC Market

The Exchange has no reason to believe that the current trading volume in equity options will not continue. Rather, the Exchange expects continued options volume growth as opportunities for investors to participate in the options markets increase and evolve. The Exchange believes that the non-pilot position and exercise limits are restrictive, and returning to those limits will hamper fair and effective competition between the listed options markets and the over-the-counter (''OTC'') markets. In fact, the Commission highlighted competition with the OTC markets as a reason for increasing the standard position and exercise limits in 1998.[14] Specifically, the Commission stated:

> The increase in position and exercise limits for standardized equity options should allow the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets.[15]

In addition, the Exchange believes that without permanently establishing the position and exercise limits set forth in the pilot programs, large customers, such as mutual funds, hedge funds and pension funds, will find the standard equity position limits an impediment to their business and investment objectives. As such, market participants may find the less-transparent OTC markets a more attractive alternative to achieve their investment and hedging objectives, leading to a retreat from the listed options markets, where trades are subject to reporting requirements and daily surveillance.

f. No Adverse Consequences From Past Increases

Equity option position limits have been gradually expanded from 1,000 contracts in 1973 to the current level of 75,000 contracts for the largest and most actively traded equity options. To date, there have been no adverse affects on the markets as a result of these past increases in the limits for equity option contracts.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements provided under Section 6(b)(5) of the Act,[16] which state in part that the rules of an exchange must 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposal.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-CBOE–2008–07. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2008–07 and should be submitted on or before March 17, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[18] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposal to permanently establish the increased position and exercise limits of the Rule 4.11 Pilot Program and the

[13] *See* 17 CFR 240.15c3–1.

[14] *See* Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (SR–CBOE–98–25).

[15] *Id.*

[16] 15 U.S.C. 78f(b)(5).

[17] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

IWM Option Pilot Program is consistent with the Act. As the Commission previously has noted, rules regarding position and exercise limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[19]

The Exchange has represented that, over the recent history of steadily increasing position and exercise limits, it has detected no adverse consequences and has received no complaints relating to their position and exercise limits or the Rule 4.11 and IWM Option Pilot Programs. According to the Exchange, it has not encountered any regulatory issues regarding the position limits subject to the two pilot programs or any instances of manipulation. Moreover, the Exchange pointed to the very significant increase in the overall volume of exchange-traded options since 1999. This growth in trading volume and number of market participants has brought additional depth and increased liquidity in exchange-traded options and thereby has lessened concerns about the potential for disruptions in the options markets that may occur through increased position and exercise limits.

The Commission expects the Exchange to continue to monitor for violations of the position and exercise limits with the purpose of discovering and sanctioning fraudulent or manipulative acts and practices, and to reassess the position and exercise limits, if and when appropriate, in light of its findings. Finally, the Commission notes that in approving the proposed rule change, it has relied upon the Exchange's representation that its surveillance procedures and reporting requirements, discussed above, will continue to monitor for manipulative schemes or too high a level of risk exposure.

In light of the foregoing, the Commission believes that the current position and exercise limits under the two pilot programs represent an appropriate balance between the Exchange's desire to accommodate market participants by offering higher position and exercise limits, particularly in light of the marked increase in the volume of exchange-traded options in recent years, and the need to provide checks on potential market manipulation, imprudent assumption of risk (*e.g.*, entering into large unhedged positions), and other potential trading abuses.

The Commission finds good cause for approving the proposed rule change before the 30th day after the date of publication of notice of filing in the **Federal Register**. The Commission notes that the Rule 4.11 Pilot Program and the IWM Option Pilot Program both expire on March 1, 2008. The Commission believes accelerated approval of the proposed rule change is appropriate in order to maintain uninterrupted position and exercise limit levels.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–CBOE–2008–07), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

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[19] *See* Securities Exchange Act Release No. 39489, *supra* note 11.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57347; File No. SR–NASDAQ–2007–100]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change to Nasdaq Rule 7033 To Modify the Fees Charged for the Mutual Fund Quotation Service and To Correct Certain Errors in the Rule Manual

February 19, 2008.

On December 19, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the fees charged for the Mutual Fund Quotation Service and to correct certain errors in the rule manual. The proposed rule change was published for comment in the **Federal Register** on January 14, 2008.[3] The Commission received no comments regarding the proposal.

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, Section 6(b)(4) of the Act,[5] which requires that Nasdaq's rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. Nasdaq proposes to amend Rule 7033 to include subsection (e), which provides for the assessment of a monthly fee on distributors of the Mutual Fund Quotation Service. When Nasdaq began operating as a national securities exchange in 2006, it adopted as its own rules numerous rules of the National Association of Securities Dealers, Inc. (''NASD''). Due to the omission of this subsection from the NASD manual, however, Nasdaq failed to include this subsection in its manual. The Commission believes that it is appropriate for Nasdaq to amend Rule 7033 to include subsection (e), as this corrects an omission in Nasdaq's rules. Nasdaq requested that the change be approved retroactive to August 1, 2006, the date Nasdaq began operating as an exchange. Nasdaq also proposes to modify the fees for the News Media and Supplemental Lists to reflect the similarity of effort in providing these services, effective retroactively to January 1, 2008. The Commission believes that it is reasonable to modify the prices charged for the News Media and Supplemental Lists to reflect the increased services provided by Nasdaq in connection with the Supplemental List, and a uniformity of effort in providing both services.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASDAQ–2007–100) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 57105 (January 4, 2008), 73 FR 2296.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(4).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57348; File No. SR–NASDAQ–2008–010]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade Units of the United States 12 Month Oil Fund, LP and the United States 12 Month Natural Gas Fund, LP Pursuant to Unlisted Trading Privileges

February 19, 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 February 5, 2008, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This order provides notice of the proposed rule change and approves it on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to trade, pursuant to unlisted trading privileges (''UTP''), units (''Units'') of the United States 12 Month Oil Fund, LP (''USOF'') and the United States 12 Month Natural Gas Fund, LP (''USGF'') (each, a ''Partnership,'' and collectively ''Partnerships'').

The text of the proposed rule change is available from the Exchange's Web site (*http://nasdaq.complinet.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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to trade pursuant to UTP the Units, each of which represents ownership of a fractional undivided beneficial interest in the net assets of either USOF or USGF. Each Partnership is a commodity pool that will issue Units that may be purchased and sold on the Exchange. The Commission has approved the original listing and trading of the Units on the American Stock Exchange LLC (''Amex'').[3] The net assets of each of USOF and USGF consist of investments in futures contracts based on crude oil, heating oil, gasoline, natural gas, and other petroleum-based fuels that are traded on the New York Mercantile Exchange (''NYMEX''), Intercontinental Exchange (''ICE Futures''), or other U.S. and foreign exchanges (collectively, ''Futures Contracts''). In the case of USOF, the predominant investments are expected to be based on, or related to, crude oil. For the USGF, the predominant investments are expected to be based on, or related to, natural gas.

USOF may also invest in other crude-oil-related investments such as cash-settled options on Futures Contracts, forward contracts for gasoline, and over-the-counter (''OTC'') contracts that are based on the price of crude oil, heating oil, gasoline, natural gas, other petroleum-based fuels, Futures Contracts, and indices based on the foregoing (collectively, ''Other Crude Oil-Related Investments''). Futures Contracts and Other Crude Oil-Related Investments collectively are referred to as ''Crude Oil Interests.'' Similarly, the USGF may also invest in other natural-gas-related investments such as cash-settled options on Futures Contracts, forward contracts for natural gas, and OTC contracts based on the price of natural gas, crude oil, and other petroleum-based fuels, Futures Contracts, and indices based on the foregoing (collectively, ''Other Natural Gas-Related Investments''). Futures Contracts and Other Natural Gas-Related Investments collectively are referred to as ''Natural Gas Interests.''

Each of USOF and USGF will invest in Crude Oil Interests and Natural Gas Interests, respectively, to the fullest extent possible without being leveraged or unable to satisfy its current or potential margin or collateral obligations. In pursuing this objective, the primary focus of USOF's and USGF's investment manager, Victoria Bay Asset Management, LLC (''Victoria Bay'' or ''General Partner''), is the investment in Futures Contracts and the management of its investments in short-term obligations of the United States of two years or less (''Treasuries'') and cash and cash equivalents (collectively, ''Cash'') for margining purposes and as collateral.

The investment objective of USOF is for changes in percentage terms of a Unit's net asset value (''NAV'') to reflect the changes in percentage terms of the price of light, sweet crude oil delivered to Cushing, Oklahoma, as measured by the changes in the average of the prices of 12 crude oil futures contracts traded on NYMEX (the ''Oil Benchmark Futures Contracts''), less the USOF's expenses.[4]

The investment objective of USGF is for changes in percentage terms of a Unit's NAV to reflect the changes in percentage terms of the price of natural gas delivered at Henry Hub, Louisiana, as measured by the changes in the average of the prices of 12 futures contracts on natural gas traded on NYMEX (the ''Natural Gas Benchmark Futures Contracts''), less the 12-Month Natural Gas Fund's expenses.[5] With respect to both funds, when calculating the daily movement of the average price of the relevant 12 futures contracts, each

[3] *See* Securities Exchange Act Release No. 56831 (November 21, 2007), 72 FR 67612 (November 29, 2007) (SR–Amex–2007–98) (''Amex Order''). *See also* Securities Exchange Act Release No. 56719 (October 29, 2007), 72 FR 62277 (November 2, 2007) (SR–Amex–2007–98) (''Amex Notice'').

[4] The Oil Benchmark Futures Contracts consist of the near-month contract to expire and the contracts for the following 11 months, for a total of 12 consecutive months' contracts, except when the near-month contract is within two weeks of expiration, in which case it will be measured by the futures contracts that are the next-month contract to expire and the contracts for the 11 consecutive months following that contract. The average price is determined by summing up the 12 individual monthly prices and dividing them by 12, and then comparing that result to the prior day's average price determined in the same fashion. The composition of the Oil Benchmark Futures Contracts will be changed or ''rolled'' over a one-day period by selling the near-month contract and buying the contract, which at that time is the 13-month contract.

[5] The Natural Gas Benchmark Futures Contracts consist of the near-month contract to expire and the contracts for the following 11 months, for a total of 12 consecutive months' contracts, except when the near-month contract is within two weeks of expiration, in which case it will be measured by the futures contracts that are the next-month contract to expire and the contracts for the 11 consecutive months following that contract. The average price is determined by summing up the 12 individual monthly prices and dividing them by 12, and then comparing that result to the prior day's average price determined in the same fashion. The composition of the Natural Gas Benchmark Futures Contract will be changed or ''rolled'' over a one-day period by selling the near-month contract and buying the contract which at that time is the 13-month contract on the same day.

contract month will be equally weighted.

Information regarding the Partnerships and the General Partner, as well as detailed descriptions of the manner in which the Units will be offered and sold, and the investment strategy of USOF and USGF, are included in their respective registration statements regarding the offering of the Units filed with the Commission under the Securities Act of 1933.[6]

As set forth in the Amex Proposal, the daily settlement prices for the NYMEX-traded Futures Contracts are publicly available on the NYMEX Web site at *http://www.nymex.com.* In addition, various market data vendors and news publications publish futures prices and related data. Quote and last-sale information for the Futures Contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, real-time futures data is available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures information on current and past trading sessions and market news free of charge on its Web site. The specific contract specifications for the Futures Contracts are also available on the NYMEX Web site and the ICE Futures Web site at *http://www.icefutures.com.*

The Web site for Amex at *http://www.amex.com*, which is publicly accessible at no charge, will contain the following information: (1) The prior business day's NAV and the reported closing price; (2) the midpoint of the bid-ask price in relation to the NAV as of the time the NAV is calculated (''Bid-Ask price'');[7] (3) the premium or discount of such price against such NAV; (4) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four previous calendar quarters; (5) the prospectus and the most recent periodic reports filed with the SEC or required by the CFTC; and (6) other applicable quantitative information.

The total portfolio composition of each Partnership will be disclosed, each business day that the Amex is open for trading, on their respective Web sites at *http://www.unitedstates12monthoi1fund.com* and *http://www.unitedstates12monthnatural gasfund.com.* USOF's Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the name and value of each Crude Oil Interest, the specific types of Crude Oil Interests and characteristics of such Crude Oil Interests, Treasuries, and amount of cash and cash equivalents held in the portfolio of the USOF. The USGF's Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the name and value of each Natural Gas Interest, the specific types of Natural Gas Interests and characteristics of such Natural Gas Interests, Treasuries, and amount of cash and cash equivalents held in the portfolio of USGF.

The public Web site disclosure of the portfolio composition of each of USOF and USGF will coincide with the disclosure by Brown Brothers Harriman & Co. (''Administrator'') on each business day of the NAV for the Units and the Basket Amount (for orders placed during the day) for each Partnership. Therefore, the same portfolio information will be provided on the public Web site for each Partnership as well as in the facsimile or e-mail to Authorized Purchasers containing the NAV and Basket Amount (''Daily Dissemination''). The format of the public Web site disclosure and the Daily Dissemination will differ because the public Web site will list all portfolio holdings while the Daily Dissemination will provide the portfolio holdings in a format appropriate for Authorized Purchasers, *i.e.*, the exact components of a Creation Unit.

Each Partnership's NAV will be calculated and disseminated daily.[8] According to the Amex Proposal, the Amex also intends to disseminate for each Partnership on a daily basis by means of CTA/CQ High Speed Lines information with respect to the Indicative Partnership Value (as discussed below), the recent NAV, the number of Units outstanding, the Basket Amount, and the Deposit Amount. The Amex will also make available on its Web site daily trading volume, closing prices, and the NAV. The closing price and settlement prices of the Futures Contracts held by each Partnership are also readily available from the NYMEX, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

To provide updated information relating to each Partnership for use by investors, professionals, and persons wishing to create or redeem the Units, the Amex will disseminate through the facilities of the Consolidated Tape Association an updated Indicative Partnership Value (''Indicative Partnership Value''), according to the Amex Proposal. The Indicative Partnership Value for each Partnership will be disseminated on a per-Unit basis at least every 15 seconds from 9:30 a.m. to 4:15 p.m. ET. The Indicative Partnership Value will be calculated based on the Treasuries and cash required for creations and redemptions (*i.e.*, NAV per Unit × 100,000) adjusted to reflect the price changes of the relevant Benchmark Futures Contract.

The Indicative Partnership Value is based on open-outcry trading of the relevant Benchmark Futures Contracts on NYMEX. Open-outcry trading on the NYMEX closes daily at 2:30 p.m. ET while NYMEX's energy futures contracts are traded on the Chicago Mercantile Exchange's CME Globex electronic trading platform on a 24 hour basis.[9] After the close of open outcry on NYMEX at 2:30 p.m. ET, the Indicative Partnership Value will reflect changes to the relevant Benchmark Futures Contracts as provided for through Globex. The value of the relevant Benchmark Futures Contracts will be available on a 15-second delayed basis from 9:30 a.m. to 4:15 p.m. ET.

Trading Halts

Nasdaq will halt trading in the Units under the conditions specified in Nasdaq Rules 4120 and 4121. The conditions for a halt include a regulatory halt by the listing market. UTP trading in the Units will also be governed by provisions of Nasdaq Rule 4120(b) relating to temporary interruptions in the calculation or wide dissemination of the Indicative Partnership Value. Additionally, Nasdaq may cease trading the Units if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. Nasdaq will also follow any procedures with respect to trading halts as set forth in Nasdaq Rule 4120(c). Finally, Nasdaq will stop trading the Units if the listing market delists them.

[6] *See* USOF's Form S–1 filed with the Commission on July 5, 2007, as amended (File No. 333–144348) and USGF's S–1 filed with the Commission on July 6, 2007 (File No. 333–144409).

[7] The Bid-Ask Price of Units is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

[8] According to the Amex Proposal, the Amex will obtain a representation from each Partnership that its NAV per Unit will be calculated daily and made available to all market participants at the same time.

[9] CME Globex® (''Globex'') is an open-access marketplace that operates virtually 24 hours each trading day. Electronic trading on Globex is conducted from 6 p.m. ET Sunday through 5:15 p.m. ET Friday each week. There is a 45-minute break each day between 5:15 p.m. ET and 6 p.m. ET.

Trading Rules

Nasdaq deems the Units to be equity securities, thus rendering trading in the Units subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Units 7 a.m. until 8 p.m. ET.

Surveillance

Nasdaq believes that its surveillance procedures are adequate to address any concerns about the trading of the Units on Nasdaq. Trading of the Units through Nasdaq will be subject to FINRA's surveillance procedures for equity securities in general and ETFs in particular.[10] The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members or affiliates of the ISG.[11]

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Units. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Units in Baskets (and that Units are not individually redeemable); (2) Nasdaq Rule 2310, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Units to customers; (3) how information regarding the Indicative Partnership Value is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction; and (5) trading information. The Information Circular will also discuss any exemptive, no-action, or interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that each Partnership is subject to various fees and expenses described in the relevant registration statement.

The Information Circular will also reference the fact that there is no regulated source of last-sale information regarding physical commodities; that the Commission has no jurisdiction over the trading of crude oil, natural gas, heating oil, gasoline, or other petroleum-based fuels; and that the CFTC has regulatory jurisdiction over the trading of crude-oil-based and natural-gas-based futures contracts and related options.

The Information Circular will also disclose the trading hours of the Units of each Partnership and that the NAV for the Units will be calculated after 4 p.m. ET each trading day.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, Nasdaq believes that the proposed rule change is consistent with the Section 6(b)(5)[12] requirements that an exchange have rules designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, Nasdaq believes that the proposal is consistent with Rule 12f–5 under the Act[13] because it deems the Units to be equity securities, thus rendering trading in the Units subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposal.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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–NASDAQ–2008–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2008–010. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2008–010 and should be submitted on or before March 17, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market

[10] FINRA surveils trading on Nasdaq pursuant to a regulatory services agreement. Nasdaq is responsible for FINRA's performance under this regulatory services agreement.

[11] For a list of the current members and affiliate members of ISG, *see http://www.isgportal.com.*

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 240.12f–5.

[14] In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

and a national market system, and in general to protect investors and the public interest. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Units.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[16] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[17] The Commission notes that it previously approved the listing and trading of the Units on Amex.[18] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[19] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Units to be equity securities, thus rendering trading in the Units subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[20] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information regarding the Units are disseminated through the facilities of the CTA and the Consolidated Quotation System. In addition, Amex will calculate and disseminate the Indicative Partnership Value per Unit for each Partnership through the facilities of the Consolidated Tape Association at least every 15 seconds throughout the Amex trading hours for the Units. Amex will also make available on its Web site daily trading volume, the closing prices, and the NAV. Web site disclosure of portfolio holdings for both Funds will be made daily. Finally, quotations and last-sale information regarding the Futures Contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters.

The Commission also believes that the proposal appears reasonably designed to preclude trading of the Units if transparency is impaired or there is unfair dissemination of the NAV. Trading in the Units will be subject to Nasdaq Rule 4120(b), which provides that, if the listing market halts trading when the IIV or value of the underlying index is not being calculated or disseminated, the Exchange also would halt trading. Nasdaq will halt trading in the Units of a Partnership if it learns that the listing market halts trading because the NAV is not being disseminated to all market participants at the same time.

In support of this proposal, the Exchange has made the following additional representations:

1. The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Units in all trading sessions and to deter and detect violations of Exchange rules.

2. Prior to the commencement of trading, the Exchange would inform its members in an Information Bulletin of the special characteristics and risks associated with trading the Units.

3. The Information Bulletin also would discuss the requirement that members deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction.

This approval order is based on the Exchange's representations.

The Commission notes that, if the Units should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Units pursuant to this order.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the Commission previously found that the listing and trading of the Shares on Amex is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit this finding or would preclude the trading of the Units on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the Units.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–NASDAQ–2008–010) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3431 Filed 2–22–08; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78*l*(f).

[17] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[18] *See supra* note 4.

[19] 17 CFR 240.12f–5.

[20] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57349; File No. SR–NYSEArca–2008–22]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade the Opta Exchange-Traded Notes Due 2038

February 19, 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 February 19, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. NYSE Arca 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 proposes to list and trade the Opta Exchange-Traded Notes due 2038 (''Notes''). The Notes are linked to the S&P Listed Private Equity Index® Net Return (U.S. dollar) (''Index''). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.196–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Notes, which are linked to the Index, pursuant to NYSE Arca Equities Rule 5.2(j)(6).[5] The Notes are senior unsecured debt obligations of Lehman Brothers Holdings Inc. (''Lehman''). The Index is comprised of stocks of the 30 leading listed private equity companies that meet certain size, liquidity, exposure, and activity requirements (each an ''Index Component'' and, collectively, the ''Index Components''). The Index is designed to provide tradable exposure to the leading publicly listed companies in the private equity sector. The Index includes North American, European, and Asia-Pacific region private equity stocks that are trading on developed market exchanges.

The Exchange submits this proposed rule change because the Index does not meet all of the ''generic'' listing requirements of NYSE Arca Equities Rule 5.2(j)(6)(B)(I) applicable to the listing of Equity Index-Linked Securities.[6] The Index meets all such requirements, except for those set forth in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(ii).[7] The Exchange represents that: (1) Except for NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(ii), the Notes currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(6); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(6) shall apply to the Notes; and (3) Lehman is required to comply with Rule 10A–3 under the Act[8]; for the initial and continued listing of the Notes. In addition, the Exchange represents that the Notes will comply with all other requirements applicable to Equity Index-Linked Securities including, but not limited to, requirements relating to the dissemination of key information (*e.g.*, the Index value and intraday indicative value), Exchange rules governing the trading of equity securities, trading hours, trading halts, surveillance, and Information Bulletin to ETP Holders, as set forth in prior Commission orders approving the generic listing rules, and amendments thereto, applicable to the listing and trading of Index-Linked Securities, generally, and Equity Index-Linked Securities, in particular.[9]

The Exchange states that detailed descriptions of the Notes, the Index (including the methodology used to determine the composition of the Index), fees, redemption procedures and payment at redemption, payment at maturity, taxes, and risk factors relating to the Notes will be available in the Registration Statement[10] or on the Web site for the Notes *(http://www.optaetn.com)*, as applicable.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that it has developed adequate trading rules, procedures, surveillance programs, and listing standards for the listing and trading of the Notes, which promote investor protection and the public interest. The Exchange notes that the Notes will be subject to all applicable requirements of NYSE Arca Equities Rule 5.2(j)(6), with the single exception as noted above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange states that written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

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[5] NYSE Arca Equities Rule 5.2(j)(6) sets forth the Exchange's generic listing standards for, among others, Equity Index-Linked Securities, which are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities. *See* NYSE Arca Equities Rule 5.2(j)(6).

[6] The generic listing requirements under NYSE Arca Equities Rule 5.2(j)(6)(B)(I) permit the listing and trading of Equity Index-Linked Securities pursuant to Rule 19b–4(e) under the Act (17 CFR 240.19b–4(e)). Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to Rule 19b–4(c)(1), if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.

[7] NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(ii) provides that each component security of the underlying index must have trading volume in each of the last six months of not less than 1,000,000 shares per month, except that for each of the lowest dollar-weighted component securities in the index that, in the aggregate, account for no more than 10% of the dollar weight of the index, the trading volume must be at least 500,000 shares per month in each of the last six months. The Exchange represents that, GIMV NV, a component security which represented 1.4% of the dollar weight of the Index as of January 31, 2008, had a trading volume of 461,498 shares in September 2007, which is below the 500,000 shares requirement.

[8] 17 CFR 240.10A–3.

[9] *See, e.g.*, Securities Exchange Act Release Nos. 56637 (October 10, 2007), 72 FR 58704 (October 16, 2007) (SR–NYSEArca–2007–92) (approving conforming amendments to the generic listing standards for Equity Index-Linked Securities); 57132 (January 11, 2008), 73 FR 3300 (January 17, 2008) (SR–NYSEArca–2007–125) (approving amendments to the continued listing standards for Equity Index-Linked Securities); 56838 (November 26, 2007), 72 FR 67774 (November 30, 2007) (SR–NYSEArca–2007–118) (approving amendments relating to indexes underlying Equity Index-Linked Securities); and 56879 (December 3, 2007), 72 FR 69271 (December 7, 2007) (SR–NYSEArca–2007–110) (approving amendments to the initial listing and trading standards for Equity Index-Linked Securities).

[10] *See* Pricing Supplement to Registration Statement filed by Lehman on February 14, 2008 (File No. 333–134553).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to

Continued

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can list and trade the Notes immediately. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. The Exchange further believes that the proposal is non-controversial because, although the Index fails to meet the requirements set forth in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(ii) by a small amount, the Notes currently satisfy all of the other applicable generic listing standards under NYSE Arca Equities Rule 5.2(j)(6) and all other requirements applicable to Equity Index-Linked Securities, as set forth in prior Commission orders approving the generic listing rules, including amendments thereto, relating to the listing and trading of Index-Linked Securities, generally, and Equity Index-Linked Securities, in particular. The Exchange notes that it has developed adequate trading rules, procedures, surveillance programs, and listing standards for the listing and trading of the Notes.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] Given that the Notes comply with all of NYSE Arca's generic listing standards for Equity Index-Linked Securities (except for narrowly missing the requirement of NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(ii)), the listing and trading of the Notes by NYSE Arca does not appear to present any novel or significant regulatory issues or impose any significant burden on competition. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2008–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2008–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2008–22 and should be submitted on or before March 17, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3465 Filed 2–22–08; 8:45 am]

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provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Public Law 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–6004.

Comments should be sent to the Agency Clearance Officer no later than April 25, 2008.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular Submission.

Title of Information Collection: TVA Valley Relations Stakeholder Survey.

Frequency of Use: On occasion.

Small Business or Organizations Affected: Yes.

Estimated Number of Annual Responses: 600.

Estimated Total Annual Burden Hours: 100.

Estimated Average Burden Hours per Response: 10 minutes.

Need for and Use of Information: This information collection will obtain feedback from key stakeholders. The information collected will help TVA evaluate its performance and identify

areas of effectiveness and opportunities for future improvement.

Steven A. Anderson,

Senior Manager, IT Planning & Governance Information Services.

[FR Doc. E8–3427 Filed 2–22–08; 8:45 am]

BILLING CODE 8120–08–P

TENNESSEE VALLEY AUTHORITY

Meeting of the TVA Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of Meeting.

SUMMARY: The TVA Regional Resource Stewardship Council (RRSC) will hold a meeting on March 13 and March 14, 2008, to obtain views and advice on the topic of TVA's Draft Environmental Policy & Framework and TVA's Natural Resources Management Strategy.

The RRSC was established to advise TVA on its natural resource stewardship activities. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2, (FACA).

The meeting agenda includes the following:

(1) TVA Updates.

(2) TVA's Draft Environmental Policy & Framework: Land & Water Stewardship Issues.

(3) External Perspectives on Land & Water Stewardship Activities.

(4) TVA Natural Resources Management Strategy.

(5) Drought Conditions Updates.

(6) Bear Creek Dam Update.

(7) Public Comments.

(8) Council Discussion and Advice.

The TVA Regional Resource Stewardship Council will hear opinions and views of citizens by providing a public comment session. The public comment session will be held at 9:30 a.m., EDT, on Friday, March 14. Persons wishing to speak are requested to register at the door by 9 a.m., EDT, on March 14 and will be called on during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11B, Knoxville, Tennessee 37902.

DATES: The meeting will be held on Thursday, March 13, 2008, from 8:30 a.m. to 4:45 p.m., EDT, and on Friday, March 14, 2008, from 8:30 a.m. to 12:30 p.m., EDT.

ADDRESSES: The meeting will be held in the Auditorium of the TVA Headquarters at 400 West Summit Hill Drive, Knoxville, Tennessee 37902, and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Beth Keel, 400 West Summit Hill Drive, WT 11B, Knoxville, Tennessee 37902, (865) 632–6113.

Dated: February 19, 2008.

Peyton T. Hairston, Jr.,

Senior Vice President, Corporate Responsibility & Diversity, Tennessee Valley Authority.

[FR Doc. 08–799 Filed 2–22–08; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at St. Marys Municipal Airport, St. Marys, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the City of St. Marys' request to change a portion 129.2 acres of airport property from aeronautical use to non-aeronautical use.

The requested release is for the purpose of permitting the Airport Owner to sell and convey title of 114.8 acres for industrial/commercial use. The parcel is located south and east of the newly constructed airport access road, and east of the existing ''old RR Grade''. The property is currently undeveloped but aeronautical use is shown for it on the Airport Layout Plan. The tract currently consists of wooded land with some open fields and is more particularly described below.

The airport has also requested release for the purpose of developing a portion of airport property 14.4 acres as non-aeronautical use to generate revenue for the airport. The property is currently undeveloped but is now shown as aeronautical land use on the Airport Layout Plan. The tract is more particularly described below.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Airport Managers office and at the Pennsylvania Department of Transportation, Bureau of Aviation in the Keystone Building, Harrisburg, PA.

DATES: Comments must be received on or before March 26, 2008.

ADDRESSES: Documents are available for review at the Airport Manager's office: Joe Bologna, Manager, St Marys Municipal Airport, 119 Airport Rd., P.O. Box 89, St Marys, PA 15857, (814) 834–4671; and at the Pennsylvania Department of Transportation, Bureau of Aviation: Mr. Brian Gearhart, Engineering Manager, PaDOT Bureau of Aviation, 400 North St., Sixth Floor, Harrisburg, PA 17120, (717) 705–1260.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Gearhart, Engineering Manager PaDOT Bureau of Aviation at the location listed above.

SUPPLEMENTARY INFORMATION: Section 125 of the Wendell H. Ford Aviation and Reform Act for the First Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment before the Secretary may waive a sponsor's Federal obligation to use certain airport land for aeronautical use.

St. Marys Airport Land Release Parcel Description: The land to be released from airport property and federal obligation is generally described as follows. The property in question consists of a total 114.8 acres located south and east of the newly constructed airport access road, and east of the existing ''old RR Grade''.

To ease location by the public, the 114.8 acres can be broken into a north and south area.

North Area to be Released: The north area includes 18.9 acres of property is bounded by the new airport access road to the north, Airport Road to the west, an old railroad grade to the south along with fields now or formerly owned by the Benzinger Township Camp Owners Association, and bounded on the east by the west side of the soccer field to remain airport property under a short-term lease.

South Area to be Released: The remaining south area to be released is east of the existing ''old RR Grade''. It includes the wooded area starting at a point approximately 397 feet nearly due east of an old railroad grade and bounded on the west by the fields now or formerly owned by the Benzinger Township Camp Owners Association for a distance of approximately 4,380 feet. The southern border runs nearly due east for a distance of approximately 809 feet. The eastern border consists of a line running nearly due north through the wooded area for a distance of approximately 1957 feet, the eastern border then turns nearly due east for approximately 792 feet, then continues nearly due north for a distance of approximately 693 feet, then turns nearly due east for a distance of

approximately 660 feet, then turns nearly due north for a distance of approximately 628 feet, then turns nearly due west for a distance of approximately 1226 feet in the wooded area adjacent to lands now or formerly owned by Charles Sritz and generally along the south edge of cultivated field now or formerly owned by Marshall V. Wolfe, then turns nearly due north along the west edge of the cultivated field for a distance of approximately 388 feet, then turns nearly due west along the wooded area to the east side of the community soccer field, then turns south along the east side of the community soccer field a distance of approximately 438 feet, then nearly due west along the southern side of the community soccer field a distance of approximately 572 feet to generally the northeast corner of the open fields now or formerly owned by the Benzinger Township Camp Owners Association for an area of 95.9 acres more or less.

St. Marys Airport Land Use Change Request Parcel Description: In addition, the airport has requested a change in land use of two areas from ''aeronautical use'' to ''non-aeronautical''. The two areas will remain airport property and are generally along the south side of the existing airfield.

Western Portion of the Land Use Change: Starting at the NE corner of the intersection of Airport Road and the new airport access road, then northerly along Airport Road for a distance of approximately 374 feet, then nearly due east a distance of approximately 1,229 feet to near the west side of the existing tee hangar area, then nearly due south a distance of 374 feet, then westerly along the north side of the new airport access road back to the NE corner of Airport Road and said new airport access road for an area of 10.3 acres more or less.

Eastern Portion of the Land Use Change: Starting at the NE corner of the intersection of Airport Road and the new airport access road, then easterly along Airport Road for a distance of approximately 2,189 feet to the point of beginning being the northeast corner of the eastern parcel on which the airport is requesting a change in land use. Then nearly due south along the farm fence a distance of 438 feet, then nearly due west a distance of 412 feet, then nearly due north a distance of 438 feet, then nearly due east along what would be the north right of way line of the new airport road if extended, a distance of 410 feet back to the point of beginning. Said area containing 4.1 acres more or less.

The parcel was acquired without Federal participation. The requested release is for the purpose of both permitting the Sponsor to sell and convey title, and to develop as non-aeronautical the areas described above. The proceeds from the sale of property are to be used for the capital and operating costs of the airport.

Interested persons are invited to comment on the proposed release from obligations. All comments will be considered by the FAA to the extent practicable.

Issued in Camp Hill, Pennsylvania, February 19, 2008.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. E8–3528 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Availability of Commercial Driver's License Information System (CDLIS) Modernization Grant Funds

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces the availability of Commercial Driver's License Information System (CDLIS) modernization grant funding as authorized by Section 4123 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). This law included an appropriation of $28 million (FY 2006–2009) towards modernization of CDLIS. The FY 2006 and FY 2007 funding of $5 million and $7 million was awarded to the American Association of Motor Vehicle Administrators for development costs. The FY 2008 funding of $8 million being made available in this notice will be awarded to the States. The program is a discretionary grant program that provides funding for States to upgrade their driver licensing information systems to make them compatible with the new modernized CDLIS specifications. The grant funds under this program may be used for personnel, computer hardware and software, publications, testing, training, and quality control. The grant funds may not be used to rent, lease, or buy land or buildings. The agency in each State designated as the primary driver licensing agency responsible for the development, implementation, and maintenance of the Commercial Driver's License (CDL) program is eligible to apply for grant funding. The Federal share of the funds is established by SAFETEA–LU as 80 percent. There is a 20 percent matching requirement. The grant period for any grant awarded under this program is effective from the date the agreement is executed until September 30, 2010. Funds are available to any State that is in substantial compliance with the requirements of 49 U.S.C. 31311 and submits a grant proposal that qualifies under the conditions in this notice, including assuming the responsibility of incorporating the new CDLIS specifications and improving its commercial driver licensing system. State grant proposals must include a detailed budget explaining how the funds will be used and how the State will meet the matching requirements.

To apply for funding, applicants must register with the grants.gov Web site (*http://www.grants.gov/applicants/get_registered.jsp*) and submit an application in accordance with instructions provided. Applications for grant funding must be submitted electronically to the FMCSA through the grants.gov web site.

DATES: FMCSA will initially consider funding for applications submitted by April 30, 2008, by qualified applicants. If additional funding remains available, applications submitted after April 30, 2008, will be considered on a case-by-case basis. The grant period is in effect from the date the agreement is executed until September 30, 2010.

FOR FURTHER INFORMATION CONTACT: Visit *www.grants.gov.* Information on the grant, application process, and additional contact information is available at that Web site. General information about the CDLIS modernization grant program is available in The Catalog of Federal Domestic Assistance (CFDA) which can be found on the internet at *http://www.cfda.gov.* The CFDA number for the CDLIS modernization grant program is 20.238. You may also contact Ms. Margaret Jones, Federal Motor Carrier Safety Administration, Office of Safety Programs, CDL Division (MC–ESL), 202–493–0439, 1200 New Jersey Avenue, SE., Suite W65–228, Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., ET, Monday through Friday, except Federal holidays.

Issued on: February 15, 2008.

William A. Quade,

Associate Administrator for Enforcement and Program Delivery.

[FR Doc. E8–3413 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No: FTA–2007–0013]

National Transit Database: Amendments to Safety & Security Reporting Manual

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of the final 2008 National Transit Database Safety & Security Reporting Manual.

SUMMARY: This notice announces the availability of the Federal Transit Administration's (FTA) *2008 National Transit Database (NTD) Safety & Security Reporting Manual*. Pursuant to 49 U.S.C. 5335, FTA requires those transit agencies reporting to the NTD from urbanized areas to provide reports within 30 days of a major safety or security incident, and to provide a monthly report on minor safety and security incidents. The *2008 NTD Safety & Security Reporting Manual* details the specific requirements and guidelines for safety and security reporting. On November 21, 2007, FTA published a notice in the **Federal Register** (72 FR 65636) inviting comments on proposed changes to the *2008 NTD Safety & Security Reporting Manual*. This notice provides responses to those comments, and announces the availability of the *2008 NTD Safety & Security Reporting Manual* on the NTD Web site at *http://www.ntdprogram.gov*.

DATES: *Effective Date:* February 25, 2008.

FOR FURTHER INFORMATION CONTACT: For program issues, John D. Giorgis, Office of Budget and Policy, (202) 366–5430 (telephone); (202) 366–7989 (fax); or *john.giorgis@dot.gov* (e-mail). For legal issues, Richard Wong, Office of the Chief Counsel, (202) 366–0675 (telephone); (202) 366–3809 (fax); or *richard.wong@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The National Transit Database (NTD) is the Federal Transit Administration's (FTA's) primary database for statistics on the transit industry. Congress established the NTD to ''help meet the needs of * * * the public for information on which to base public transportation service planning * * *'' (49 U.S.C 5335). Currently, over 650 transit agencies in urbanized areas report to the NTD through an Internet-based reporting system. Since 2002, the NTD has included an expanded Safety & Security Module in order to meet the increased public interest in transit safety and security data. Data from the Safety & Security NTD Module are used by FTA's Office of Safety and Security, the Department of Homeland Security, the National Transportation Safety Board, and in the biennial *United States Department of Transportation Conditions and Performance Report to Congress*. NTD reporters are required to submit a report on major incidents to the Safety & Security Module within 30 days of the incident, and to submit a monthly summary report of minor incidents within 30 days of the end of the month.

On November 21, 2007, FTA published a notice in the **Federal Register** (72 FR 65636) inviting comments on proposed changes to the *2008 NTD Safety & Security Manual*. This notice provides responses to those comments, and announces the availability of the *2008 NTD Safety & Security Reporting Manual* on the NTD Web site at *http://www.ntdprogram.gov*.

II. Comments and Response to Comments

FTA received comments from four respondents on its proposed changes, and responds to the comments in the following order: (a) Injury Threshold; (b) Fire Threshold; (c) Data Continuity; (d) Acts of God; and (e) Other Comments.

(a) *Injury Threshold.*

All four comments objected to FTA's proposal to simplify the injury threshold for filing an incident report. Previously, the injury threshold for filing an incident report was two or more injuries requiring immediate medical transportation away from the scene, or one or more injuries requiring immediate medical transportation away from the scene in the case of incidents at grade crossings or along rail right-of-ways. FTA proposed simplifying this threshold to being simply one or more injuries requiring immediate medical transportation away from the scene. Three comments objected that this reduced threshold would significantly increase reporting burden for simple slips and falls, of which a transit agency may have dozens during a given month. One comment objected that this reduced threshold would require reporting of an incident, ''even if the operator avoids an accident and someone falls out of his or her seat and claims to be hurt * * *,'' and cited this as an additional example of the increased reporting burden that would result from this proposal.

FTA Responds: Based on these comments, FTA agrees to exempt slips, falls, and electric shocks from the reduced injury threshold. Transit agencies will simply report the total number of injuries resulting from slips, falls, and electric shocks to transit customers, workers, and other persons, and the total number of occurrences of these incidents. This is the same as the existing reporting requirements. FTA, however, will proceed with the simplified single-injury threshold for other incidents, including collisions, fires, and security incidents. In particular, a collision will now require an incident report if it results in one or more injuries requiring immediate medical transport away from the scene, regardless of location. FTA notes that the increased reporting burden of this requirement is offset somewhat by raising the property damage threshold from $7,500 to $25,000, which is the threshold used by FTA's State Safety Oversight Program. In the case where ''an operator avoids an accident and someone falls out of his or her seat and claims to be hurt * * *,'' FTA will update the *2008 NTD Safety & Security Reporting Manual* to reflect that such injuries may be classified as a ''fall.'' Thus, such an incident would not require filing an incident report. FTA also notes that injuries are not reported to the NTD on the basis of passenger claims of injury; an injury is only reported to the NTD when it results in immediate medical transportation away from the scene.

(b) *Fire Threshold.*

Two comments objected to FTA's proposal to require an incident report for all fires requiring suppression on the basis that this would be a significant increase in reporting burden.

FTA Responds: Based on these comments, FTA drops its proposal to require an incident report for all fires requiring suppression. Rather, FTA will require an incident report only for those fires that meet the established threshold criteria of:

- One or more fatalities;
- One or more injuries requiring immediate medical transportation away from the scene;
- Property damage greater than or equal to $25,000; or
- An evacuation for life safety reasons.

For fires that require suppression, but which do not meet one of the established threshold criteria, transit agencies will simply report a summary total each month for each of four location categories. These four categories are: (1) In transit vehicles; (2) in revenue facilities; (3) in non-revenue facilities; and, (4) on right-of-way. This is similar to the existing reporting requirements, except for the increased property damage threshold and the lower injury threshold.

(c) *Data Continuity.*

Two comments objected to FTA's proposal on the grounds that it would create discontinuous safety and security data for transit. Three areas of discontinuity were cited in the comments: (1) Data for injuries; (2) data for fatalities; and, (3) data for major incidents. Additionally, one comment expressed concern that FTA's proposal would cause transit to appear less safe.

FTA Responds: FTA notes that while it is changing the injury threshold for filing an incident report, it is not changing the definition of an injury. Summary totals have previously been collected for injuries and incidents that did not require transit agencies to file a major incident report. As such, this proposal will not impact the continuity of data on total transit injuries.

FTA also notes that while it will be including suicides in the definition of fatalities, it has previously collected data on all fatalities, including suicides. As such, FTA will take great care to ensure that it always uses continuous data series in reporting transit fatalities. FTA will also continue to make available detailed transit fatality data, which will allow data users to exclude suicides from their analysis of transit fatalities.

FTA does note that these changes will cause some difficulty in assembling continuous data on the total number of major transit incidents. Based on previously filed major incident reports, however, FTA does hope to assemble a continuous data series from 2002—present on major transit incidents. To the extent that discontinuous data series on major transit incidents do result from these changes, FTA believes that the negative impacts of discontinuity are more than offset by the benefits to transit agencies of reduced reporting requirements. The reduced reporting requirements will apply to incidents that produce no fatalities and injuries, and between the old threshold of $7,500 in property damage and the new threshold of $25,000 in property damage.

(d) *Acts of God.*

Two comments requested additional clarification of FTA's proposal to add ''Acts of God'' as a reportable incident. One comment asked how FTA's proposal for ''Acts of God'' would relate to various legal definitions for this term.

FTA Responds: This proposal originated from the experiences of some transit agencies in filing NTD Safety & Security reports. Some agencies have notified NTD staff that they have suffered property damage in excess of the reporting threshold as a result of a severe storm or flood, but have been unable to complete an incident report for this occurrence, as the NTD did not account for such ''Acts of God.'' As such, FTA is adding this category to allow transit agencies to account for the impacts of ''Acts of God'' on transit facilities. FTA will make clear in the *2008 NTD Safety & Security Reporting Manual* that it is not FTA's intent to require transit agencies to assess such ''Acts of God'' as potential contributing factors to a collision.

(e) *Other Comments.*

One comment expressed concern about the reporting burden of adding accidents involving non-revenue vehicles and adding hazardous material spills as reportable incidents. One comment expressed concern about FTA collecting information on ''light in the eyes'' in regard to collisions, and asked if this referred only to sunlight or also to headlights.

FTA Responds: FTA notes that existing reporting requirements already require an incident report for collisions involving non-revenue vehicles when those collisions exceed the reporting threshold. This is unchanged. FTA also notes that existing reporting requirements required reporting hazardous material spills when such spills resulted in an evacuation for life safety reasons. FTA's proposal only slightly modifies this by requiring a report whenever a hazardous material spill causes ''imminent danger to life, health, or the environment, and had special attention given at the time of the incident.'' FTA does not believe that clarification of the definition will cause a significant increase in reporting burden from the previous definition. FTA will clarify in the *2008 NTD Safety & Security Reporting Manual* and in the reporting system itself that the question of ''light in the eyes'' refers to sunlight.

Two comments expressed concern about the short lead time between the public notice-and-comment on FTA's proposal and the scheduled implementation of the proposal.

FTA responds: FTA recognizes the concern of transit agencies to have ample time to review proposed changes to the NTD data collection. FTA will ensure that more lead time is given for public notice-and-comment for future amendments to the *NTD Safety & Security Reporting Manual*, and will allow more time for a collaborative development process with the transit industry. In order to support implementation of the *2008 NTD Safety & Security Reporting Manual*, FTA has scheduled six training sessions around the country to assist transit agencies in implementing the new requirements. Technical assistance is also available to transit agencies at any time through their NTD data validation analyst.

The final *2008 NTD Safety & Security Reporting Manual* is available on the NTD Web site at *http://www.ntdprogram.gov*.

Issued in Washington, DC, this 20th day of February 2008.

James S. Simpson,

Administrator.

[FR Doc. E8–3517 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Supplemental Draft Environmental Impact Statement for the Central Corridor Light Rail Transit Project, Located in Minneapolis and Saint Paul, MN

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Intent to prepare a Supplemental Draft Environmental Impact Statement (SDEIS).

SUMMARY: The Federal Transit Administration (FTA) in cooperation with the Metropolitan Council is issuing this notice to advise interested agencies and the public of its intent to prepare a Supplemental Draft Environmental Impact Statement (SDEIS) for the proposed Central Corridor Light Rail Transit (LRT) Project, located in Minneapolis and Saint Paul, Minnesota (the ''Project''). The SDEIS will be prepared in accordance with the National Environmental Policy Act (NEPA) as well as provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The SDEIS will evaluate potential changes to the Central Corridor LRT Project since the publication of the April 21, 2006 Alternatives Analysis/Draft Environmental Impact Statement (AA/DEIS) and disclose new information that is being developed during the preliminary engineering process.

FOR FURTHER INFORMATION CONTACT: Ms. Marisol Simon, Regional Administrator, Federal Transit Administration (FTA), Region V, 200 West Adams Street, Suite 320, Chicago, Illinois 60606, Telephone: (312) 353–2789.

DATES: Written comments on the proposed action should be sent to Ms. Kathryn L. O'Brien, AICP, Project Manager, Central Corridor Project Office, 540 Fairview Ave. North, Suite 200S, Saint Paul, MN 55104, Telephone: 651–602–1927; E-mail:

kathryn.obrien@metc.state.mn.us and Mr. David Werner at FTA, Region V, 200 West Adams Street, Suite 320, Chicago, Illinois 60606, Telephone: (312) 353–2789; E-mail: *David.Werner@dot.gov* by March 26, 2008.

SUPPLEMENTARY INFORMATION:

Background: The Metropolitan Council is proposing transportation improvements in the Central Corridor linking Minneapolis and Saint Paul. The Central Corridor is 11-miles in length of which 9.8 miles consists of new alignment and 1.2 miles uses the existing Hiawatha LRT alignment in downtown Minneapolis. It will connect the Minneapolis and Saint Paul downtown areas as well as the University of Minnesota and the State Capitol complex. The purpose of the Project is to meet the future transit needs of the Central Corridor and the Region and to support the economic development goals for the Corridor. It allows the opportunity to provide a direct connection to the existing 11.6-mile Hiawatha LRT line in Minneapolis, thereby increasing mobility options within the Region.

The AA/DEIS Notice of Intent was published in the **Federal Register** on June 5, 2001 and the notice of the availability of the AA/DEIS for review and comment was published in the **Federal Register** on April 21, 2006. In April 2006, the Central Corridor AA/DEIS was distributed for public review and comment (No. 20060147, ERP No. D–FTA–F40434–MN). The AA/DEIS provided a comprehensive examination of alignments, LRT and Busway/Bus Rapid Transit (BRT) technologies, and a Baseline Alternative for the Central Corridor. Based on findings from the AA/DEIS and on public and agency input received during the process, the Metropolitan Council adopted a Locally Preferred Alternative (LPA) for the Central Corridor, namely Light Rail Transit, operating on Washington and University Avenues, on June 28, 2006 (Metropolitan Council Resolution No. 2006–15).

Proposed Changes to the LPA: A supplemental DEIS is being prepared because key changes to the LPA as previously defined are being considered. In response to comments received on the AA/DEIS and the Project subsequent to the selection of the LPA, several design options for key project elements are being considered. These options reflect conditions that exist within the Corridor, technical and operational constraints, major infrastructure requirements that were not fully documented in the AA/DEIS, physical conditions that have changed within the corridor since the AA/DEIS, and substantive comments received during the AA/DEIS public comment period. The SDEIS will document and disclose potential impacts relating to key project elements that have changed and/or remain uncertain since issuance of the AA/DEIS, including but not limited to:

1. Hiawatha/Central Connection: Alternative alignments connecting to the existing Hiawatha LRT tracks will be evaluated.

2. University of Minnesota Alignment (tunnel vs. at-grade and stations): The LPA included a tunnel, primarily under Washington Avenue, as the preferred alignment alternative through the University of Minnesota campus. The SDEIS will examine the impacts of an at-grade alignment alternative through the East Bank of the University of Minnesota campus and modifications to the tunnel alignment, as well as an alignment change through this segment of the line, largely due to the new University of Minnesota stadium presently under construction on the LPA alignment.

3. Potential Additional Station at Hamline, Victoria or Western: The impact of adding a station to the Central Corridor LRT project at Hamline, Victoria or Western avenues in the City of Saint Paul will be evaluated.

4. Capitol Area Alignment/Stations: Potential changes to the alignment and location of stations within Saint Paul's Capitol Area Architectural and Planning Board area will be documented and disclosed.

5. Downtown Saint Paul alignment/station modifications: Alternative means of accessing Saint Paul's Union Depot, including potential impacts to LRT station location and alignment will be documented and disclosed.

6. Traction power substations: The AA/DEIS discussed the need for traction power substations as part of LRT operations, but did not identify the number or potential location(s) of substations. The SDEIS will document and disclose this information.

7. 3-car train requirement: The impacts of potential 3-car train operations on the Central Corridor will be evaluated.

8. Vehicle maintenance facility: The need for and impacts of constructing a storage and maintenance facility to serve the operational needs of the Central Corridor LRT project will be documented and disclosed.

9. Washington Avenue Bridge: The need for and impacts of modifications and/or improvements required to the Washington Avenue Bridge for LRT purposes will be documented and disclosed.

10. Other key project elements determined through the on-going decision-making process to have potential significant impacts to human and natural environments.

The SDEIS Process and the Role of Participating Agencies and the Public: The SDEIS will assist the Metropolitan Council, FTA, resource agencies, key project partners and the general public in understanding and resolving key project elements within the context of NEPA. The purpose of the SDEIS process is to explore in a public setting potentially significant effects of implementing proposed changes to the LPA on the physical, human, and natural environment. Areas of investigation include, but are not limited to, land use, historic and archaeological resources, visual and aesthetic qualities, traffic and parking, modification to existing bridges, noise and vibration, environmental justice, regulatory floodway/floodplain encroachments, coordination with transportation and economic development projects, and construction impacts. Other issues to be addressed in the SDEIS include: Natural areas, ecosystems, rare, threatened and endangered species, water resources, air/surface water and groundwater quality, energy, potentially contaminated sites, displacements and relocations, Section 4(f) of the Department of Transportation Act and Section 6(f) of the Land and Water Conservation Fund Act and secondary and cumulative effects. The SDEIS is not intended to repeat all the analyses contained in the project's AA/DEIS. Most analyses would be limited to the study area corresponding to key project elements currently identified and outlined above, as well as other project elements that have yet to be identified and may arise during the current decision-making process. Potential impacts will be evaluated for both the short-term construction period and the long-term effects of operations. Measures to avoid, minimize, or mitigate any significant adverse impacts will be identified.

Notices regarding the intent to prepare the SDEIS and soliciting input will be sent to the appropriate Federal, State, and local agencies that have expressed or are known to have an interest or legal role in this proposed action. A comprehensive public involvement program has been developed to engage private organizations, citizens, and interest groups in the process. The program includes an active Community Advisory

Committee (CAC), a Business Advisory Council (BAC), a Central Corridor Management Committee (CCMC) and a Project Advisory Committee (PAC). A Central Corridor project Web site has been created and can be found at: *http://www.metrocouncil.org/transportation/ccorridor/centralcorridor.htm.* Community outreach coordinators are available to work with residents, businesses and interested individuals along the entirety of the corridor at: *http://www.metrocouncil.org/transportation/ccorridor/CCstaff.htm.* Notices of public meetings have been and will continue to be given through a variety of media providing the time and place of the meeting along with other relevant information. When complete, the SDEIS will be distributed and available for public and agency review and comment prior to any public hearings. Following publication, review, and approval of the SDEIS, a Final Environmental Impact Statement (FEIS) will be prepared and circulated. The FEIS will identify a final preferred alternative and any necessary mitigation commitments.

In accordance with 23 CFR 771.105 (a) and 771.133, the Metropolitan Council and FTA will comply with all Federal environmental laws, regulations, and executive orders applicable to the proposed project during the environmental review process to the maximum extent practicable. These requirements include, but are not limited to, the regulations of the Council on Environmental Quality and FTA regulations implementing NEPA (40 CFR Parts 1500–1508, and 23 CFR Part 771), the project-level air quality conformity regulation of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93), the Section 404(b)(1) guidelines of EPA (40 CFR Part 230), the regulation implementing Section 106 of the National Historic Preservation Act (36 CFR Part 800), the regulation implementing Section 7 of the Endangered Species Act (50 CFR Part 402), Section 4(f) of the DOT Act (23 CFR Section 771.135), and Executive Orders 12898 on Environmental Justice, 11988 on Floodplain Management, and 11990 on Wetlands.

Comments and questions concerning the proposed action should be directed to Ms. Kathryn L. O'Brien, AICP, Project Manager, Central Corridor Project Office, 540 Fairview Ave. North, Suite 200S, Saint Paul, MN 55104, Telephone: 651–602–1927; E-mail: *kathryn.obrien@metc.state.mn.us*

Dated: February 13, 2008.

Marisol Simon,

Regional Administrator, FTA Region V.

[FR Doc. E8–3525 Filed 2–22–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before March 26, 2008.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC, or at *http://dms.dot.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 14, 2008.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
		New Special Permits		
14640–N		Chem Service, Inc. Chester Count, PA.	49 CFR 173.4(a)(11)	To authorize the transportation in commerce of certain PG I hazardous materials that are not authorized for transportation aboard passenger-carrying aircraft under the small quantity provisions of 49 CFR 173.4. (modes 4, 5)
14641–N		Conocophillips Alaska, Inc., Anchorage, AK.	49 CFR 172.101 Hazardous Materials Table Column (9B).	To authorize the transportation in commerce by air of certain hazardous materials in packagings that exceed the quantity limit for cargo carrying aircraft. (mode 4)
14642–N		MEMC Pasadena, Inc., Pasadena, TX.	49 CFR 173.301(f)	To authorize the transportation in commerce of certain DOT Specification 3AAX cylinders containing Silicon tetrafluoride without pressure relief devices. (mode 1)
14643–N		World Airways, Inc., Peachtree City, GA.	49 CFR 175.3(b)	To authorize the transportation in commerce of hazardous materials by a US carrier engaged in cargo-only operations entirely outside of the United States without being subject to the US variations in the ICAO Technical Instructions. (mode 4)

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
14644–N		El Aero Services, Inc., Elko, NV.	49 CFR 172.101 HMT Column (9B), 172.200, 172.300, 172.400.	To authorize the transportation in commerce of certain hazardous materials by cargo aircraft only in remote areas of the US without being subject to hazard communication requirements and quantity limitations. (mode 4)

[FR Doc. 08–812 Filed 2–2–08; 8:45am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permit.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **FEDERAL REGISTER** publications, they are not repeated here. Request of modifications of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. There applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before March 10, 2008.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 19, 2008.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
		Modification Special Permits		
8215–M		Olin Corporation, Brass and Winchester, Inc., East Alton, IL.	49 CFR Part 172, Subpart E; 172.320; 173.62(c); 173.230.	To modify the special permit to authorize the use of a Division 1.1 placard.
8723–M		Alaska Pacific Powder Company, Anchorage, AK.	49 CFR 172.101; 173.62; 173.242; 176.83; 177.848.	To modify the special permit to authorize an additional container type.
11818–M		ITT Industries Space Systems, LLC, Rochester, NY.	49 CFR 180.205	To modify the special permit to authorize the transportation in commerce of an additional Division 2.2 gas and to increase the maximum width of capillary pumped loops.
12440–M		Luxfer Gas Cylinders, Riverside, CA.	49 CFR 173.301(h); 173.302(a); 178.46(a)(4); 178.46(c)(i).	To modify the special permit to establish additional testing matrix guidelines.
13207–M		BEI, Honolulu, HI	49 CFR 173.32(f)(5)	To modify the special permit to authorize additional portable tanks for the transportation in commerce of sulfuric acid.
14333–M		The Columbiana Boiler Co., Columbiana, OH.	49 CFR 179.300–13(b)	To modify the special permit to authorize a new design in securing/sealing hex plugs.
14393–M		Hamilton Sundstrand, Windsor Locks, CT.	49 CFR 173.306(e) (iii), (iv), (v) and (vi); 173.307(a)(4)(iv).	To modify the special permit to authorize the transportation in commerce of new supplemental cooling unit refrigeration machines with alternative safety devices as a component part of an aircraft.
14496–M		Oilphase Division, Schlumberger Eval. & Production (UK) Ltd Dyce, Aberdeen, UK.	49 CFR 173.201(c), 173.202(c), 173.203(c), 173.301(f), 173.302(a), 173.304(a), 173.304(d), 175.3.	To modify the special permit to authorize minor revisions to the non-DOT specification oil well sampling cylinder.
14544–M		DS Containers, Inc., Batavia, IL.	49 CFR 173.306(a)(3)(v) ...	To modify the special permit to authorize additional non-DOT specification containers.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
14568–M		Department of Defense, Ft. Eustis, VA.	49 CFR 173.431	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of portable nuclear gauges containing certain radioactive materials exceeding the quantity that may be transported in a Type A packaging.

[FR Doc. 08–813 Filed 2–22–08; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–183 (Sub-No. 4X); STB Docket No. AB–290 (Sub-No. 301X)]

Union Railroad Company—Abandonment Exemption—in Allegheny County, PA; Norfolk Southern Railway Company—Discontinuance of Trackage Rights Exemption—in Allegheny County, PA

On February 5, 2008, Union Railroad Company (URR) and Norfolk Southern Railway Company (NSR) (collectively, petitioners) jointly filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 for URR to discontinue service and abandon and for NSR to discontinue trackage rights over a 1.34-mile line of railroad between South Duquesne, PA, and McKeesport, PA, in Allegheny County, PA. The line extends from McKeesport Branch Station 0+00 (Duquesne Branch Station 97+26) at the point of switch for turnout D–60, to McKeesport Branch Station 70+78 at the point of switch for turnout UM–1, and includes the Riverton Railroad Bridge (Riverton Bridge) that crosses the Monongahela River at Monongahela milepost 14.3. The line traverses U.S. Postal Service Zip Codes 15110 and 15132, and includes no stations.

Petitioners state that, based on information in their possession, the line does not contain federally granted rights-of-way. Any documentation in petitioners' possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 23, 2008 [1] (sooner if petitioners' request for expedited handling can be accommodated).

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,300 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.[2] Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 17, 2008. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB–183 (Sub-No. 4X) and AB–290 (Sub-No. 301X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; (2) for URR—John A. Vuono, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219; and (3) for NSR—Greg E. Summy, General Solicitor, Norfolk Southern Corp., Three Commercial Place, Norfolk, VA 23510–2191. Replies to petitioners' petition are due on or before March 17, 2008.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Governmental and Public Affairs at (202) 245–0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). The EA in an abandonment proceeding normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service. Here, SEA anticipates issuing the EA on March 5, 2008, and making comments due by April 4, 2008, in an effort to accommodate petitioners' request for expedited consideration.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov.*

Decided: February 15, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–3477 Filed 2–22–08; 8:45 am]

BILLING CODE 4915–01–P

[1] Petitioners seek expedited consideration of the petition, stating that the line proposed to be abandoned, including the Riverton Bridge, is intended to be used as a trail and would be the final link of a trail system that would connect Washington, DC and the City of Pittsburgh. According to petitioners, the official opening of the system is scheduled for on or about October 1, 2008. Petitioners state that, prior to the trail opening, construction would be required to prepare the line for use as a trail. Petitioners have confirmed that they are aware that removal of rail or railroad-related materials may not occur until completion of the exemption process, including compliance with any environmental or historic conditions that may be imposed.

[2] As noted, petitioners intend that the line be developed for trail use. Petitioners state that URR, and its parent company United States Steel Corporation, have engaged in negotiations with Allegheny County and plan for URR to transfer title to the line to Allegheny County.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34836]

Arizona Eastern Railway—Construction and Operation Exemption—In Graham County, Arizona

AGENCIES: Lead: Surface Transportation Board. Cooperating: Federal Railroad Administration.

ACTION: Notice of Availability of Environmental Assessment and Request for Public Review and Comment.

SUMMARY: On August 4, 2006, the Arizona Eastern Railway (AZER) filed a

petition with the Surface Transportation Board (Board) seeking an exemption under 49 United States Code (U.S.C.) 10502 from prior approval requirements of 49 U.S.C. 10901 for authority to construct and operate 12 miles of new rail line in Graham County, Arizona (AZ). The Board, through its Section of Environmental Analysis (SEA) and in cooperation with the Federal Railroad Administration (FRA), is the lead agency responsible for the preparation of the Environmental Assessment (EA).

The Proposed Action is the construction and operation of a new rail line to connect the Phelps Dodge Dos Pobres Mine (Mine) with the existing 133.5-mile AZER line that operates between Miami, AZ and Bowie, AZ. The proposed rail line would begin near Safford, AZ, at AZER milepost 1133.5, known as the ''Lone Star Junction'' and proceed northerly for 12.1 miles, terminating at the Mine. The proposed rail line would cross agricultural and undeveloped lands, the Gila River, and then would turn in a northeast direction toward the Safford Municipal Airport. The proposed rail line would cross U.S. Highway 70 west of the San Simon River and would also cross Solomon Road, Airport Road, Lone Star Mountain Road, San Juan Road, and Phelps Dodge Road. The crossing at U.S. Highway 70 would consist of a signalized at-grade crossing, including warning lights and automated gates. The other roadway crossings, where traffic volumes are generally low, would consist of signed at-grade crossings with warning lights. The proposed rail line would accommodate one round trip per day, seven days per week, each day of the year. Each trip would consist of 20 to 25 railcars. Principal commodities to be handled include sulfuric acid, copper, and copper-related products.

Based on the information provided from all sources to date and its independent analysis, SEA preliminarily concludes that construction and operation of the proposed rail line would not have significant environmental impacts if the Board imposes and AZER implements the recommended mitigation measures set forth in the EA.

Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. The entire EA is also available for review on the Board's Web site (*http://www.stb.dot.gov*) by clicking on the ''Decisions and Notices'' link, then ''E-LIBRARY'' and searching by the Service Date (February 25, 2008) or Docket Number (FD 34836). SEA, working with FRA, will consider all comments received when making its final recommendations to the Board. The Board will then consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

DATES: The EA is available for public review and comment. All faxed and electronic comments must be submitted by March 31, 2008; comments sent by mail must be postmarked by March 31, 2008.

ADDRESSES: Send written comments (an original and two copies) to: Diana Wood, Section of Environmental Analysis, Surface Transportation Board, Case Control Unit, 395 E Street, SW., Washington, DC 20423.

Please reference STB Finance Docket No. 34836 in all correspondence. Comments on the EA may also be filed electronically on the Board's Web site, *http://www.stb.dot.gov,* by clicking on the ''E-FILING'' link.

FOR FURTHER INFORMATION CONTACT: Diana Wood, SEA Project Manager, at (202) 245–0302; e-mail: *woodd@stb.dot.gov.* Federal Information Relay Service for the hearing impaired: 1–800–877–8339.

Decided: February 25, 2008.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–3480 Filed 2–22–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 13, 2008.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 26, 2008 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0013.

Type of Review: Revision.

Title: Registration of Money Services Business, 31 CFR 103.41.

Description: Money services businesses file form 107 to register with the Department of the Treasury pursuant to 31 U.S.C. 5330 and 31 CFR 103.41. The information on the form is used by criminal investigators, and taxation and regulatory enforcement authorities, during the course of investigations involving financial crimes.

Respondents: Business and other for profit.

Estimated Total Reporting Burden: 40,000 hours.

Clearance Officer: Russell Stephenson, (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E8–3421 Filed 2–22–08; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 19, 2008.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 26, 2008 to be assured of consideration.

Office of Foreign Assets Control

OMB Number: 1505–0167.

Type of Review: Extension.

Title: Cuban Remittance Affidavit.

Description: The information is required of persons subject to the jurisdiction of the United States who make remittances to persons in Cuba

pursuant to Section 515.570 of the Cuban Assets Controls Regulations, 31 CFR part 515. The information will be used by the Office of Foreign Assets Control of the Department of the Treasury (''OFAC'') to monitor compliance with regulations governing family and emigration remittances.

Respondents: Individuals and households.

Estimated Total Reporting Burden: 65,000 hours.

OMB Number: 1505–0198.

Type of Review: Revision.

Title: Requirement to report information about the shipment of rough diamonds.

Description: The ultimate consignee of rough diamond shipments, identified on Customs Form 7501 Entry Summary, is required to report specified information about the shipment of rough diamonds imported into the United States to the foreign exporting authority within 15 calendar days of the date that the shipment arrived at a U.S. port of entry pursuant to Section 592.301(a)(3) of the Rough Diamonds Control Regulations, 31 CFR Part 592. This collection of information is needed to monitor the integrity of international rough diamond shipments, and the information collected will be used to further the compliance, enforcement, and civil penalty programs of the Office of Foreign Assets Control of the Department of the Treasury (''OFAC'').

Respondents: Businesses or other for-profit institutions, individuals and households.

Estimated Total Reporting Burden: 1,750 hours.

Clearance Officer: Office of Foreign Assets Control, (202) 622–2500, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex-2nd Floor, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E8–3422 Filed 2–22–08; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Recruitment Notice for the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: Notice for Recruitment of IRS Taxpayer Advocacy Panel (TAP) Members.

DATES: March 17, 2008, through April 30, 2008.

FOR FURTHER INFORMATION CONTACT: Bernard Coston at 404–338–8408.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of the Treasury and the Internal Revenue Service (IRS) are inviting individuals to help improve the nation's tax agency by applying to be members of the TAP. The mission of the TAP is to provide citizen input into enhancing IRS customer satisfaction and service by identifying problems and making recommendations for improvement of IRS systems and procedures and elevating the identified problems to the appropriate IRS official. The TAP serves as an advisory body to the Secretary of the Treasury, the Commissioner of Internal Revenue and the National Taxpayer Advocate. TAP members will participate in subcommittees that channel their feedback to the IRS.

The IRS is seeking applicants who have an interest in good government, a personal commitment to volunteer approximately 300 to 500 hours a year, and a desire to help improve IRS customer service. To the extent possible, the IRS would like to ensure a balanced TAP membership representing a cross-section of the taxpaying public throughout the United States. Potential candidates must be U.S. citizens, compliant with Federal, state and local taxes, and pass a background investigation.

TAP Members are a diverse group of citizens who work as valuable partners of the IRS by providing input from a taxpayer's perspective on ways to improve IRS customer service and administration of the Federal tax system. In order to be an effective member of TAP, applicants must possess the knowledge, skills and abilities necessary to (1) identify grassroots taxpayer issues by soliciting input directly from taxpayers and (2) work effectively with TAP committees, and IRS program staff, to research and analyze issues, develop solutions, and make recommendations to the IRS on ways to improve programs and procedures. TAP members work to identify and solve problems by: actively participating in committee meetings; expressing their views; listening to the views of others, showing a willingness to explore new ideas, and contributing their knowledge and experience in committee deliberations. TAP Members should have good communications skills and be able to make effective presentations about IRS programs, procedures, and TAP activities, while clearly distinguishing between TAP positions and their personal viewpoints.

Interested applicants should visit the TAP Web site at *http://www.improveirs.org* to complete the on-line application or call the TAP toll free number 1–888–912–1227 to request that an application be mailed. The opening date for submitting applications is March 17, 2008, and the deadline for submitting applications is April 30, 2008. Finalists will be ranked by experience and suitability. The most qualified candidates will complete a panel interview. The Secretary of the Treasury will review the recommended candidates and make final selections.

Note: Highly-ranked applicants not selected as members may be placed on a roster of alternates who will be eligible to fill future vacancies that may occur on the Panel.

Questions regarding the selection of TAP members may be directed to Bernard Coston, Director, Taxpayer Advocacy Panel, Internal Revenue Service, Stop 211–D, Room 950, 401 West Peachtree Street, NW., Atlanta, GA 30308–3510, or 404–338–8408.

Dated: February 12, 2008.

Steve Berkey,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–3425 Filed 2–22–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee March 2008 Public Meeting

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for March 13, 2008.

Date: March 13, 2008.

Time: Public meeting time: 9 a.m. to 12 p.m.

Location: United States Mint, 801 9th Street, NW., Washington, DC 20220.

Subject: Review candidate designs for the Abraham Lincoln One-Cent Coin Redesign Program; review candidate designs for the Louis Braille Bicentennial-Braille Literacy Commemorative Coin; review narrative designs for the Native American $1 Coin; and other general business.

Interested persons should call 202–354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to

circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.

• Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.

• Makes recommendations with respect to the mintage level for any commemorative coin recommended.

For Further Information Contact: Cliff Northup, United States Mint Liaison to the CCAC; 801 9th Street, NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6830.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: February 19, 2008.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E8–3476 Filed 2–22–08; 8:45 am]

BILLING CODE 4810–37–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—March 18, 2008, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Larry Wortzel, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on ''the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China.''

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC, on March 18, 2008, to address ''China's Expanding Global Influence: Foreign Policy Goals, Practices, and Tools.''

Background

This event is the third in a series of public hearings the Commission will hold during its 2008 report cycle to collect input from leading academic, industry, and government experts on the impact of the economic and national security implications of the U.S. bilateral trade and economic relationship with China. The March 18 hearing is being conducted to obtain testimony on the goals, strategies and instruments of China's foreign policy, and the impact of China's regional and global influence on U.S. economic and security interests around the world. Panels in the hearing will address the economic, military/security, and diplomatic tools employed in the conduct of Chinese foreign policy.

The March 18 hearing will address ''China's Expanding Global Influence: Foreign Policy Goals, Practices, and Tools'' and will be Co-chaired by Vice Chairman Carolyn Bartholomew and Commissioner Daniel Blumenthal.

Information on hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web site *http://www.uscc.gov.*

Copies of the hearing agenda will be made available on the Commission's Web site *http://www.uscc.gov* as soon as available. Any interested party may file a written statement by March 18, 2007, by mailing to the contact below. On March 18, the hearing will be held in two sessions, one in the morning and one in the afternoon. There will be a question and answer period between the Commissioners and the witnesses.

Date and Time: Wednesday, March 18, 2008, 8:45 a.m. to 5 p.m. Eastern Standard Time. A detailed agenda for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: The hearing will be held on Capitol Hill in Room 562, Dirksen Senate Office Building located at First Street and Constitution Avenue, NE., Washington, DC 20510. Public seating is limited to about 50 people on a first come, first served basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington, DC 20001; phone 202–624–1409, or via e-mail at *kmichels@uscc.gov.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: February 19, 2008.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E8–3419 Filed 2–22–08; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Services National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the annual meeting of the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will be held April 9–12, 2008, at the Rosen Centre Hotel, 9840 International Drive, Orlando, Florida. The meeting is open to the public, and the sessions are scheduled as follows:

April 9: 6 p.m. until 8 p.m.
April 10 & 11: 8:30 a.m. until 3 p.m.
April 12: 8:30 a.m. until 2 p.m., with a closing program at 6 p.m.

The Committee comprised of sixty-five national voluntary organizations, with five membership categories (Service Member, Associate Service Member, Donor Member, Associate Donor Member and Adjunct Member), advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities within VA health care facilities. The primary purposes of this meeting are: to provide for Committee review of volunteer policies and procedures; to accommodate full and open communications between organization representatives and the Voluntary Service Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit retain, motivate and recognize volunteers, and to approve Committee recommendations.

The April 9 session will involve opening ceremonies and remarks by several VA and local officials. The April 10 session will feature a Voluntary Service Report and recognition of the recipients of the VAVS Award for Excellence and NAC Volunteers of the Year. In addition, the James H. Parke Memorial Scholarship Luncheon will be held to honor an outstanding youth volunteer. The following educational workshops are scheduled: The Professional Volunteer; Recruitment; Selling Ice to Eskimos and Customer Service.

On April 11, the business session will include subcommittee reports. This

session will be follows by a repeat of the educational workshops. The April 12 session will include closing remarks from the Chairman, followed that evening by the Volunteer Recognition Dinner.

No time will be allocated at this meeting for receiving oral 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 B. Balun, Director, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Individuals interested in attending are encouraged to contact Ms. Balun at (202) 273–8952.

Dated: February 15, 2008.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 08–811 Filed 2–22–08; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease of VA Property for the Development and Operation of a Transitional Housing Facility for Homeless Veterans at the Department of Veterans Affairs Medical Center, Batavia, NY

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of intent to enter into an enhanced-use lease.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) intends to enter into an enhanced-use lease of approximately 7,196 square feet of underutilized space at the VA Medical Center in Batavia, New York. The selected lessee would finance, design, develop, operate and maintain a transitional housing facility consisting of no less than 7 two-bedroom units and 4 one-bedroom units for a total of 18 units. As consideration for the lease, eligible veterans would be provided facility units and related services on a priority basis at no cost to VA.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7778 (Not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that the implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: February 15, 2008.

James B. Peake,

Secretary of Veterans Affairs.

[FR Doc. E8–3414 Filed 2–22–08; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 73, No. 37

Monday, February 25, 2008

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Geological Survey

Notice of an Open Meeting of the Advisory Committee on Water Information (ACWI)

Correction

In notice document 08–613 beginning on page 8346 in the issue of Wednesday, February 13, 2008, make the following corrections:

1. On page 8346, in the third column, under the **SUMMARY** heading, in the second line, ''ACWS'' should read ''ACWI''.

2. On the same page, in the same column, under the **SUMMARY** heading, in the seventh line, ''ACWS'' should read ''ACWI''.

[FR Doc. C8–613 Filed 2–22–08; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
February 25, 2008

Part II

Securities and Exchange Commission

17 CFR Parts 239, 240 and 249

Exemption From Registration Under Section 12(g) of the Securities Exchange Act of 1934 for Foreign Private Issuers; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 240 and 249

[Release No. 34–57350; International Series Release No. 1307; File No. S7–04–08]

RIN 3235–AK04

Exemption From Registration Under Section 12(G) of the Securities Exchange Act of 1934 for Foreign Private Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: We are proposing amendments to the rule that exempts a foreign private issuer from having to register a class of equity securities under Section 12(g) of the Securities Exchange Act of 1934 (''Exchange Act'') based on the submission to the Commission of certain information published outside the United States. The exemption allows a foreign private issuer to exceed the registration thresholds of Section 12(g) and effectively have its equity securities traded on a limited basis in the over-the-counter market in the United States. Currently, in order to obtain the exemption under Exchange Act Rule 12g3–2(b), a non-reporting foreign private issuer must submit to the Commission written materials in paper, including a list of information that the issuer must disclose publicly pursuant to its home jurisdiction laws or stock exchange requirements, or that is sent to its security holders, along with paper copies of documents containing the required information that the issuer has published for its last fiscal year. A successful applicant may maintain the exemption by submitting to the Commission paper copies of these documents on an ongoing basis. The proposed amendments would eliminate paper submission requirements by automatically granting the Rule 12g3–2(b) exemption to a foreign private issuer that meets specified conditions, which do not depend on a count of an issuer's United States security holders, and which would require an issuer to publish electronically in English specified non-United States disclosure documents. As a result, the proposed amendments should make it easier for U.S. investors to gain access to a foreign private issuer's material non-United States disclosure documents and make better informed decisions regarding whether to invest in that issuer's equity securities through the over-the-counter market in the United States or otherwise.

DATES: Comments must be received on or before April 25, 2008.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's *Internet comment form (http://www.sec.gov/rules/proposed.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–04–08 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–04–08. This file number should be included on the subject line if e-mail is used. To help us 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/proposed.shtml*). Comments also are available for public 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Elliot Staffin, Special Counsel, at (202) 551–3450, in the Office of International Corporate Finance, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We propose to amend Commission Rules 12g3–2 [1] and 15c2–11 [2] under the Exchange Act,[3] Forms 15,[4] 15F,[5] 40–F,[6] and 6–K [7] under the Exchange Act, and Form F–6 [8] under the Securities Act of 1933 (''Securities Act'').[9]

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I. Executive Summary and Background

A. Introduction

Congress adopted Section 12(g) of the Exchange Act [10] in order to provide investors trading in over-the-counter securities, in which there was significant public interest, with the same fundamental disclosure protections afforded to investors trading in securities listed on a national securities exchange.[11] When read in conjunction with the subsequently adopted Exchange Act Rule 12g–1,[12]

[1] 17 CFR 240.12g3–2.
[2] 17 CFR 240.15c2–11.
[3] 15 U.S.C. 78a, *et seq.*
[4] 17 CFR 249.323.
[5] 17 CFR 249.324.
[6] 17 CFR 249.240f.
[7] 17 CFR 249.306.
[8] 17 CFR 239.36.
[9] 15 U.S.C. 77a, *et seq.*
[10] 15 U.S.C. 78*l*(g).
[11] Congress adopted Exchange Act Section 12(g) as part of the Securities Act Amendments of 1964 [Pub. L. 88–467 (August 20, 1964)]. *See* the 88th Congress, 2d Session, *U.S. House of Representatives Report No. 1418* (May 19, 1964).
[12] 17 CFR 240.12g–1.

Section 12(g) requires an issuer [13] to file an Exchange Act registration statement regarding a class of equity securities within 120 days of the last day of its fiscal year if, on that date, the number of its record holders is 500 or greater, and the issuer's total assets exceed $10 million.[14]

When adopting Section 12(g), Congress expressly granted the Commission the power to exempt any security of a foreign issuer from that section if it found that ''such exemption is in the public interest and is consistent with the protection of investors.'' [15] The Commission initially adopted a provisional exemption from Section 12(g) for the securities issued by any foreign government, foreign national or foreign corporation so that it could study more fully the extent to which Section 12(g) should apply to foreign securities.[16] This initiative involved a review of the disclosure requirements and practices of many of the foreign countries with issuers whose securities were traded in the United States over-the-counter market.[17]

Following completion of its work, in 1967 the Commission adopted Exchange Act Rule 12g3–2,[18] which established two exemptions from Section 12(g) for foreign private issuers.[19] Exchange Act Rule 12g3–2(a) exempts a foreign private issuer whose equity securities are held of record by less than 300 residents in the United States, although it has 500 or more record holders on a worldwide basis as of the end of its most recently completed fiscal year.[20] An issuer that relies on this exemption must reassess the number of its U.S. shareholders at the end of each fiscal year in order to determine whether the exemption remains valid.

Although, for this first exemption, the Commission used a traditional shareholder test to determine whether there was sufficient U.S. investor interest to warrant requiring Section 12(g) registration,[21] it adopted a different approach for the second exemption. Exchange Act Rule 12g3–2(b)[22] exempts a foreign private issuer from Section 12(g) registration if, among other requirements, the issuer furnishes to the Commission on an ongoing basis information it has made public or is required to make public under the laws of its jurisdiction of incorporation, organization or domicile, pursuant to its non-U.S. stock exchange filing requirements, or that it has distributed or is required to distribute to its security holders (collectively, its ''non-U.S. disclosure documents'').[23] The Commission adopted this exemption because there was improvement in the reporting of financial information by foreign issuers, due to changes in foreign corporate laws, stock exchange requirements, and voluntary disclosure by the foreign companies themselves.[24] Because of the continued and expected improvement in the quality of information being made public by foreign issuers, the Commission determined that Section 12(g) exemptive relief was appropriate for a foreign private issuer that has not sought a public market in the United States for its equity securities, and that furnishes to the Commission its non-U.S. disclosure documents.[25] These documents would then be available for review by U.S. investors through the Commission's public reference facilities.

B. Current Rule 12g3–2(b) Requirements

As a condition to obtaining the Exchange Act Rule 12g3–2(b) exemption, an issuer must initially submit to the Commission a list of its non-U.S. disclosure requirements as well as copies of its non-U.S. disclosure documents published since the beginning of its last fiscal year.[26] The Rule clarifies that an issuer need only submit copies of information that is material to an investment decision for the purpose of obtaining or maintaining the exemption.[27] As examples of material information, the Rule lists an issuer's financial condition or results of operations, changes in its business, the acquisition or disposition of assets, the issuance, redemption or acquisition of securities, changes in management or control, the granting of options or other payment to directors or officers, and transactions with directors, officers or principal security holders. At the time of the initial submission, an issuer must also provide the Commission with the number of U.S. holders of its equity securities and the percentage held by them, as well as a brief description of how its U.S. holders acquired those shares.[28]

Rule 12g3–2(b) currently requires that an applicant submit all of the necessary non-U.S. disclosure documents and other information before the date that a registration statement would otherwise become due under Section 12(g).[29] Once an issuer has timely submitted its application and obtained the exemption, the issuer may surpass the record holder thresholds as long as it maintains the exemption by submitting the required non-U.S. documents.

From its inception, the Rule 12g3–2(b) disclosure regime has mandated paper submissions. Even after the adoption of EDGAR filing rules for foreign private issuers, the Commission has required a foreign private issuer to submit its

[13] Application of Section 12(g) requires that the issuer have the necessary jurisdictional nexus with interstate commerce in the United States. 15 U.S.C. 78*l*(g)(1).

[14] Through successive amendments of Rule 12g–1, the Commission raised the statutory asset threshold from an amount exceeding $1,000,000 to an amount exceeding $10,000,000.

[15] Exchange Act Section 12(g)(3) [15 U.S.C. 78*l*(g)(3)]. In an earlier draft of the 1964 amendments, the U.S. Senate justified an exemptive provision for the securities of foreign issuers based on the serious difficulties that would result from the enforcement of Exchange Act Section 12(g)'s registration and reporting requirements ''against foreign issuers outside the jurisdiction of the United States who do not voluntarily seek funds in the American capital markets or listing on an exchange. * * *'' 88th Congress, 1st Session, *U.S. Senate Report No. 379* 1, 29 (July 24, 1963).

[16] Release No. 34–7427 (September 15, 1964). At that time, while expressing its belief that, to the extent practicable, U.S. investors in foreign securities should be afforded the same investor protections to which U.S. investors in domestic securities are entitled, the Commission also recognized the practical problems ''of enforcement and compliance and of differing foreign laws'' raised by the application of Section 12(g) to foreign companies.

[17] *See* Release No. 34–7746 (November 16, 1965).

[18] Release No. 34–8066 (April 28, 1967).

[19] As defined in Rule 3b–4(c) (17 CFR 240.3b–4(c)), a foreign private issuer is a corporation or other organization incorporated or organized in a foreign country that either has 50 percent or less of its outstanding voting securities held of record by United States residents or, if more than 50 percent of its voting securities are held by U.S. residents, about which none of the following are true:

(1) A majority of its executive officers or directors are U.S. citizens or residents;

(2) more than 50 percent of its assets are located in the United States; and

(3) the issuer's business is administered principally in the United States.

[20] 17 CFR 240.12g3–2(a).

[21] The Commission reasoned that having fewer than 300 U.S. shareholders evidenced such an insufficient public interest that it could not justify applying Section 12(g) although a foreign private issuer may have breached the statutory threshold. The Commission further relied on Exchange Act Section 12(g)(4) [15 U.S.C. 78*l*(g)(4)], which provides that an issuer may file a certification with the Commission to terminate its registration when its record holders have fallen below 300. Release No. 34–7746.

[22] 17 CFR 240.12g3–2(b).

[23] Exchange Act Rule 12g3–2(b)(1)(iii) (17 CFR 240.12g3–2(b)(iii)).

[24] Release No. 34–8066.

[25] *Id.*

[26] Exchange Act Rule 12g3–2(b)(1)(i) (17 CFR 240.12g3–2(b)(1)(i)). Historically, an issuer has submitted its home jurisdiction materials as part of a letter application to the Commission, which has been processed through the Office of International Corporate Finance in the Division of Corporation Finance.

[27] Exchange Act Rule 12g3–2(b)(3) (17 CFR 240.12g3–2(b)(3)).

[28] Exchange Act Rule 12g3–2(b)(1)(v) (17 CFR 240.12g3–2(b)(1)(v)). An issuer must also disclose the dates and circumstances of the most recent public distribution of securities by the issuer or an affiliate.

[29] Exchange Act Rule 12g3–2(b)(2) (17 CFR 240.12g3–2(b)(2)).

initial Rule 12g3–2(b) supporting materials in paper.[30] The Commission has based this treatment of Rule 12g3–2(b) materials on the analogous treatment of applications for an exemption from Exchange Act reporting obligations filed pursuant to Exchange Act Section 12(h).[31]

Once a foreign private issuer has obtained the Rule 12g3–2(b) exemption, it may have its equity securities traded on a limited basis in the over-the-counter market in the United States. Typically a foreign private issuer obtains the Rule 12g3–2(b) exemption in order to have established an unlisted, sponsored or unsponsored depositary facility for its American Depositary Receipts (''ADRs'').[32] Establishing the Rule 12g3–2(b) exemption also facilitates resales of an issuer's securities to qualified institutional buyers (''QIBs'') under Rule 144A.[33] It further permits registered broker-dealers to fulfill their current information delivery obligations concerning foreign private issuers' securities for which they seek to publish quotations.[34]

The Rule 12g3–2(b) exemption has generally not been available to a foreign private issuer that had a class of securities registered under Exchange Act Section 12 or had a Section 15(d) reporting obligation, active or suspended, during the previous 18 months.[35] The exemption has similarly been unavailable to an issuer that succeeded to the Exchange Act reporting obligations of another company following a merger, consolidation, acquisition or exchange of shares.[36]

However, in March 2007, the Commission adopted amendments to Rule 12g3–2, which enable a foreign private issuer to claim the Rule 12g3–2(b) exemption immediately upon the effectiveness of its termination of Exchange Act registration and reporting pursuant to newly adopted Exchange Act Rule 12h–6.[37] While these amendments eliminated the 18-month and successor issuer prohibitions for issuers terminating their Exchange Act registration and reporting under Rule 12h–6, the prohibitions still apply to foreign private issuers that have exited the Exchange Act reporting regime under Exchange Act Rule 12g–4 or 12h–3.[38]

In order to maintain the Rule 12g3–2(b) exemption, an issuer must furnish to the Commission on an ongoing basis its non-U.S. disclosure documents. Until the March 2007 amendments, the Commission required an issuer to submit those documents in paper to the Commission. The March amendments require an issuer that has obtained the Rule 12g3–2(b) exemption, upon the effectiveness of its termination of registration and reporting pursuant to newly adopted Rule 12h–6, to publish its non-U.S. disclosure documents on an ongoing basis on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market, rather than submit that information in paper to the Commission.[39] The amendments further permit a foreign private issuer that has obtained or will obtain the Rule 12g3–2(b) exemption, upon application to the Commission and not pursuant to Rule 12h–6, to publish electronically in the same manner its non-U.S. documents required to maintain the exemption.[40]

The March 2007 amendments further clarified the English translation requirements under Rule 12g3–2(b).[41] The amendments provide that, when electronically publishing its non-U.S. documents required to maintain the Rule 12g3–2(b) exemption, at a minimum, a foreign private issuer must electronically publish English translations of the following documents if in a foreign language:

- Its annual report, including or accompanied by annual financial statements;
- Interim reports that include financial statements;
- Press releases; and
- All other communications and documents distributed directly to security holders of each class of securities to which the exemption relates.[42]

The March 2007 amendments also provide that, for a foreign private issuer that electronically publishes its non-U.S. disclosure documents, the Rule 12g3–2(b) exemption remains in effect for as long as the issuer fulfills the ongoing non-U.S. disclosure requirement, or until the issuer registers a class of securities under Section 12 of the Exchange Act or incurs reporting obligations under Section 15(d) of the Exchange Act.[43] This is consistent with the Commission's treatment of issuers making paper submissions under Rule 12g3–2(b).

C. Proposed Rule 12g3–2 Amendments

Since the initial adoption of Rule 12g3–2(b) four decades ago, the globalization of securities markets, advances in information technology, the increased use of ADR facilities by foreign companies to trade their securities in the United States, and other factors have increased significantly the number of foreign companies that have engaged in cross-border activities, as well as increased the amount of U.S. investor interest in the securities of foreign companies. These developments led us recently to re-evaluate and revise the Commission rules governing when a foreign private issuer may terminate its Exchange Act registration and reporting obligations.[44]

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[30] *See* Release No. 33–8099 (May 14, 2002), 67 FR 36678 (May 24, 2002).

[31] 15 U.S.C. 78*l*(h). We require the filing of Section 12(h) exemptive applications in paper pursuant to Regulation S–T Rule 101(c)(16) (17 CFR 232.101(c)(16)).

[32] An ADR is a negotiable instrument that represents an ownership interest in a specified number of securities, which the securities holder has deposited with a designated bank depositary. The filing of Securities Act Form F–6 (17 CFR 239.36) is required in order to establish an ADR facility. The eligibility criteria for the use of Form F–6 include the requirement that the issuer of the deposited securities have a reporting obligation under Exchange Act section 13(a) or have established the exemption under Rule 12g3–2(b). See General Instruction I.A.3 of Form F–6. While required to be registered on Form F–6 under the Securities Act, ADRs are exempt from registration under Exchange Act Section 12(g) pursuant to Exchange Act Rule 12g3–2(c) (17 CFR 240.12g3–2(c)).

[33] See Securities Act Rule 144A(d)(4) (17 CFR 230.144A(d)(4)).

[34] Brokers currently can comply with their obligations under Exchange Act Rule 15c2–11 (17 CFR 240.15c2–11) when a foreign company has established and maintains the Rule 12g3–2(b) exemption by, in part, reviewing the information furnished to the Commission under the exemption. See Rule 15c2–11(a)(4) (17 CFR 240.15c2–11(a)(4)).

[35] Exchange Act Rule 12g3–2(d)(1) (17 CFR 240.12g3–2(d)(1)). The 18-month prohibition does not apply to a Canadian issuer that incurred Section 15(d) reporting obligations solely from the filing of a registration statement under the Commission's Multijurisdictional Disclosure System (''MJDS'').

[36] Exchange Act Rule 12g3–2(d)(2) (17 CFR 240.12g3–2(d)(2)). Similarly, MJDS filers are not subject to this restriction.

[37] 17 CFR 240.12h–6. The Commission adopted these Rule 12g3–2 amendments and Rule 12h–6 in Release No. 34–55540 (March 27, 2007), 72 FR 16934 (April 5, 2007).

[38] 17 CFR 240.12g–4 and 240.12h–3. Both Rules 12g–4 and 12h–3 permit an issuer to exit the Exchange Act reporting regime following the filing of a Form 15 (17 CFR 249.323), which certifies that it has fewer than 300 record holders or less than 500 record holders and total assets not exceeding $10 million on the last day of each of its most recent 3 fiscal years.

[39] Exchange Act Rule 12g3–2(e) (17 CFR 240.12g3–2(e)).

[40] Exchange Act Rule 12g3–2(f) (17 CFR 240.12g3–2(f)).

[41] Rule 12g3–2(b)(4) (17 CFR 240.12g3–2(b)(4)) provides that copies furnished to the Commission of press releases and any materials distributed directly to security holders must be in English, and states that English summaries and versions may be used instead of English translations. However, the rule does not specify what other documents must be translated fully into English, and when summaries or versions may be used.

[42] Note 1 to Exchange Act Rule 12g3–2(e).

[43] 15 U.S.C. 78o(d).

[44] Several commenters on Rule 12h–6 encouraged the Commission to address the registration

We believe these same factors warrant reconsidering the Commission rules that determine when a foreign private issuer must enter the Section 12(g) regime as well.

We propose to amend Exchange Act Rule 12g3–2 to permit a foreign private issuer to claim the Rule 12g3–2(b) exemption, without having to submit an application to the Commission, as long as:

- The issuer is not required to file or furnish reports under Exchange Act Section 13(a)[45] or 15(d) of the Act;
- The issuer currently maintains a listing of the subject class of securities on one or more exchanges in a foreign jurisdiction that, either singly or together with the trading of the same class of the issuer's securities in another foreign jurisdiction, constitutes the primary trading market for those securities;
- Either:
  - ○ The average daily trading volume of the subject class of securities in the United States for the issuer's most recently completed fiscal year has been no greater than 20 percent of the average daily trading volume of that class of securities on a worldwide basis for the same period; or
  - ○ The issuer has terminated its registration of a class of securities under Section 12(g) of the Act, or terminated its obligation to file or furnish reports under Section 15(d) of the Act, pursuant to Exchange Act Rule 12h–6; and
- Unless claiming the exemption in connection with or following its recent Exchange Act deregistration, the issuer has published specified non-U.S. disclosure documents, required to be made public from the first day of its most recently completed fiscal year, in English on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market.

All foreign private issuers that met the above requirements would be immediately exempt from Exchange Act registration under Rule 12g3–2(b) without having to apply to, or otherwise notify, the Commission, concerning the exemption. Thus, a foreign private issuer that exceeds the 300 U.S. holder threshold could automatically claim the exemption as long as it is not otherwise subject to Exchange Act reporting, meets the foreign listing condition, has 20 percent or less of its worldwide trading market in the United States, and electronically publishes the specified non-U.S. disclosure documents, as required under the proposed amendments.[46]

An issuer could also immediately claim the Rule 12g3–2(b) exemption upon the effectiveness of, or following its recent Exchange Act deregistration, whether pursuant to Rule 12g–4, 12h–3, or 12h–6, or the suspension of its reporting obligations under Section 15(d),[47] if it met the above requirements absent the electronic publication condition for its most recently completed fiscal year. Since a recently deregistered company will already have filed its Exchange Act reports on EDGAR for its most recently completed fiscal year, such a prior year publication requirement is not necessary to protect investors.

Like the March 2007 amendments, the proposed rules would require any issuer, whether a prior registrant or not, to maintain the Rule 12g3–2(b) exemption by publishing, on an ongoing basis and for each subsequent fiscal year, in English, on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market, the information specified for its last fiscal year. The proposed rules would require the electronic publication in English of the same types of information required under the March 2007 amendments.

The proposed rules provide that the Rule 12g3–2(b) exemption will remain in effect for as long as a foreign private issuer satisfies the electronic publication condition, or until:

- The issuer no longer maintains a listing for the subject class of securities on one or more exchanges in its primary trading market;
- The average daily trading volume of the subject class of securities in the United States exceeds 20 percent of the average daily trading volume of that class of securities on a worldwide basis for the issuer's most recently completed fiscal year, other than the year in which the issuer first claims the exemption; or
- The issuer registers a class of securities under section 12 of the Act or incurs reporting obligations under section 15(d) of the Act.

By requiring the electronic publication in English of specified non-U.S. disclosure documents for an issuer claiming the Rule 12g3–2(b) exemption, the proposed amendments should make it easier for U.S. investors to gain access to a foreign private issuer's material non-U.S. disclosure documents, and make better informed decisions regarding whether to invest in that issuer's equity securities through the over-the-counter market in the United States or otherwise. Thus, the proposed amendments should foster increased efficiency in the trading of the issuer's securities for U.S. investors.

By enabling a qualified foreign private issuer to claim the Rule 12g3–2(b) exemption automatically, and without regard to the number of its U.S. shareholders, the proposed rule amendments should encourage more foreign private issuers to claim the Rule 12g3–2(b) exemption. That would enable the establishment of additional ADR facilities, make it easier for broker-dealers to fulfill their obligations under Exchange Act Rule 15c2–11 to investors with respect to the equity securities of a non-reporting foreign company, and facilitate the resale of a foreign company's securities to QIBs in the United States under Securities Act Rule 144A. Consequently, the proposed rule amendments should foster the increased trading of a foreign company's securities in the U.S. over-the-counter market, which could benefit investors.

II. Discussion

A. Proposed Non-Reporting Condition

Proposed Exchange Act Rule 12g3–2(b) would require a foreign private issuer to have no reporting obligations under Exchange Act Section 13(a) or 15(d) as a condition to the exemption under the Rule.[48] Like the current non-Exchange Act reporting condition of Rule 12g3–2(b),[49] the purpose of this provision is to prevent an issuer from claiming the Rule 12g3–2(b) exemption when it already has incurred active Exchange Act reporting obligations.

1. Non-Reporting Issuers

A foreign private issuer would satisfy the proposed non-reporting condition if it did not already have reporting obligations under either Exchange Act Section 13(a) or 15(d). Since Section 13(a) imposes reporting obligations on an issuer that has registered a class of securities under Section 12, a foreign private issuer that has an effective registration statement filed with the Commission under Section 12(b), for

requirements under Section 12(g) for foreign private issuers as well as the rules relating to termination of Exchange Act registration and reporting.

[45] 15 U.S.C. 78m(a).

[46] An issuer that has fewer than 300 U.S. resident shareholders would continue to be exempt from Exchange Act registration without any other conditions unless it also sought to establish the Rule 12g3–2(b) exemption.

[47] An issuer may suspend its Section 15(d) reporting obligations under Rule 12h–3 or Section 15(d) itself. The statutory section provides that suspension occurs if, on the first day of the fiscal year, other than the year in which the issuer's registration statement went effective, the issuer's record holders number less than 300.

[48] Proposed Exchange Act Rule 12g3–2(b)(1).

[49] Rule 12g3–2(d)(1) (17 CFR 240. 12g3–2(d)(1)).

example, covering a class of debt securities, or Section 12(g), covering a particular class of equity securities, would be ineligible to claim the exemption. This treatment is consistent with the current Exchange Act reporting prohibition under Rule 12g3–2(b).[50]

Currently an issuer may apply for the Rule 12g3–2(b) exemption, although it may have exceeded the Section 12(g) shareholder thresholds on the last day of its most recently completed fiscal year, as long as the statutory 120-day period for filing a Section 12(g) registration statement has not lapsed.[51] We propose to eliminate this 120-day submission requirement because, under the proposed revised Rule 12g3–2(b) exemptive scheme, we do not believe that this requirement is necessary to protect investors.

The proposed revised exemptive scheme does not depend on an issuer's determination of the number of its worldwide or U.S. shareholders, and does not require that it submit a written application disclosing that information. Instead, it requires a foreign private issuer to satisfy a U.S. trading volume standard measured for its most recently completed fiscal year, meet a foreign listing requirement, and electronically publish specified material non-U.S. disclosure documents in English. If we also required an issuer to claim the exemption within the 120-day period, we believe some issuers, particularly smaller ones, would be unable to meet that deadline.[52] Assuming that those issuers continued to satisfy the other conditions to Rule 12g3–2(b), they would have to wait until the end of their current fiscal year and the start of a new 120-day period before they could claim the exemption. We see little benefit in making investors wait several months before being able to gain electronic access to the issuer's material non-U.S. disclosure documents in English.

As is currently the case, an issuer that, on the last day of its most recently completed fiscal year, has not exceeded the 500 worldwide holder threshold under Exchange Act Section 12(g), the 300 U.S. holder threshold under Rule 12g3–2(a), or the $10 million annual asset threshold under Rule 12g–1, could claim an exemption from Section 12(g) registration for a class of equity securities based upon one or more of those provisions, and would not have to comply with Rule 12g3–2(b)'s conditions, if it chose not to rely on that rule for its exemption from Section 12(g) registration. However, such an issuer would have to claim the Rule 12g3–2(b) exemption, and satisfy all of its conditions, if it sought to have established an ADR facility for its equity securities. ADRs must be registered on a Form F–6, which requires an issuer of the deposited securities to be either an Exchange Act reporting company or have the Rule 12g3–2(b) exemption.

2. Deregistered Issuers

A foreign private issuer that has suspended its Exchange Act reporting obligations upon the filing of Form 15, pursuant to Rule 12g–4 or 12h–3, or Form 15F, pursuant to Rule 12h–6, would satisfy the non-reporting requirement upon the effectiveness of its deregistration, assuming that it had not otherwise incurred additional Exchange Act reporting obligations. Similarly, a foreign private issuer that suspended its reporting obligations pursuant to the statutory terms of Section 15(d) would satisfy the non-reporting condition immediately upon its determination that it had less than 300 shareholders as of the beginning of its most recent fiscal year.

Thus, unlike the current rule, the proposed provision would not require an issuer to look back over the previous eighteen months and determine whether it had Exchange Act reporting obligations during that period.[53] We eliminated the eighteen month requirement when adopting the March 2007 rule amendments that granted the Rule 12g3–2(b) exemption automatically to a foreign private issuer upon the effectiveness of its termination of Exchange Act registration and reporting pursuant to Rule 12h–6. We see no reason to treat differently foreign private issuers that have terminated their Section 12(g) registration under the older Rule 12g–4 following the filing of a Form 15.[54] Elimination of a lengthy waiting period would help hasten the publishing of a foreign private issuer's non-U.S. disclosure documents required under the exemption and, thus, help improve the ability of U.S. investors to make informed decisions regarding that issuer's securities.

For the same reason, proposed Rule 12g3–2(b) would eliminate the current rule's general prohibition against making the exemption available to an issuer that has had active or suspended reporting obligations under Section 15(d) during a prescribed period.[55] The current rule precludes any issuer that suspended its reporting obligations under Section 15(d) from ever being able to obtain the Rule 12g3–2(b) exemption, no matter how much time has elapsed from the effectiveness of its suspension. We permitted an issuer to claim the Rule 12g3–2(b) exemption immediately upon the effectiveness of its deregistration under Rule 12h–6, although its reporting obligations derived from Section 15(d). Similarly, we propose that an otherwise eligible issuer could claim the Rule 12g3–2(b) exemption upon the effectiveness of the suspension of its reporting obligations under Section 15(d) or pursuant to Rule 12h–3 and following the filing of a Form 15. As long as it has not once again incurred active Section 15(d) reporting obligations,[56] an issuer would be able to claim the Rule 12g3–2(b) exemption and publish its non-U.S. disclosure documents accordingly.

Comment Solicited

We solicit comment on the proposed non-Exchange Act reporting condition.

- Should we require an issuer not to have Exchange Act reporting obligations as a condition to claiming the Rule 12g3–2(b) exemption, as proposed?
- Should we permit an issuer that has Exchange Act reporting obligations regarding a class of debt securities to claim the Rule 12g3–2(b) exemption for a class of equity securities without having first to deregister the class of debt securities? Should we permit an issuer that has Exchange Act reporting obligations regarding a particular class of equity securities to claim the Rule 12g3–2(b) exemption regarding a different class of equity securities?
- Should we permit an issuer to claim the Rule 12g3–2(b) exemption if it meets the trading volume condition and the other proposed conditions although the statutory 120-day period has lapsed, as proposed? If not, why should we retain the 120-day statutory requirement for Rule 12g3–2(b) when that provision pertains to a shareholder-based requirement? What are the benefits to investors of eliminating or retaining the 120-day requirement?

[50] Exchange Act Rule 12g3–2(d)(1).

[51] Exchange Act Rule 12g3–2(b)(2).

[52] Under current Rule 12g3–2(b), several issuers have requested Commission staff to accept their applications although the 120-day period has lapsed.

[53] Exchange Act Rule 12g3–2(d)(1) provides that the Rule 12g3–2(b) exemption is generally not available to a foreign private issuer that, during the preceding 18 months, has registered a class of securities under Exchange Act Section 12 or had an active or suspended Section 15(d) reporting obligation.

[54] Although a qualifying prior Form 15 filer may terminate its Exchange Act registration and reporting under Rule 12h–6, only a small number have done so.

[55] Rule 12g3–2(d)(1). Unlike under Section 12(g) and Rule 12g–4, an issuer can only suspend, and cannot terminate, its reporting obligations under Section 15(d) and Rule 12h–3.

[56] Following deregistration, an issuer would once again incur Section 15(d) reporting obligations upon the effectiveness of a new Securities Act registration statement.

• Should we require an issuer not to have Exchange Act reporting obligations over a specified period before claiming the exemption? Should the specified period be 3, 6, 12, 18, or 24 months, or some other specified period?

• Should we permit an otherwise eligible issuer to claim the Rule 12g3–2(b) exemption immediately upon the termination of its Section 12(g) registration or the suspension of its Section 15(d) reporting obligations, as proposed?

B. Proposed Foreign Listing Condition

As a second condition to the use of the Rule 12g3–2(b) exemption, the proposed amendments would require an issuer currently to maintain a listing of the subject class of securities on one or more exchanges in a foreign jurisdiction that, either singly or together with the trading of the same class of the issuer's securities in another foreign jurisdiction, constitutes the primary trading market for those securities. These proposed rule amendments are substantially similar to the foreign listing condition and definition of primary trading market adopted as part of the March 2007 amendments.[57]

The purpose of the foreign listing condition is to help assure that there is a non-U.S. jurisdiction that principally regulates and oversees the issuance and trading of the issuer's securities and the issuer's disclosure obligations to investors. This foreign listing condition makes more likely the availability of a set of non-U.S. securities disclosure documents to which a U.S. investor may turn for material information when making investment decisions about the issuer's securities in the U.S. over-the-counter market. This foreign listing condition is also consistent with the Commission staff's past and current practice of administering the Rule 12g3–2(b) exemption.

The proposed rule amendments define primary trading market to mean that at least 55 percent of the trading in the issuer's subject class of securities took place in, on or through the facilities of a securities market or markets in a single foreign jurisdiction or in no more than two foreign jurisdictions during the issuer's most recently completed fiscal year. The proposed amendments further instruct that, if a foreign private issuer aggregates the trading of its subject class of securities in two foreign jurisdictions for the purpose of this paragraph, the trading for the issuer's securities in at least one of the two foreign jurisdictions must be larger than the trading in the United States for the same class of the issuer's securities.

Like the 2007 amendments, the proposed amendments would permit an issuer to aggregate its securities over multiple markets in one or two foreign jurisdictions in recognition that many foreign private issuers have listings on more than one exchange in one or more non-U.S. markets. Unlike the earlier amendments, however, the proposed rule amendments would not require an issuer establishing the exemption, but not deregistering, to have maintained a foreign listing for the previous twelve months, or for some other specified period of time, since we see no reason to exclude newly listed foreign companies from eligibility. We note that many foreign exchanges require substantial initial disclosure before a listing is accepted. In addition, there is currently no similar requirement for a non-reporting company applying for the Rule 12g3–2(b) exemption.

Under Rule 12h–6, an issuer must certify that, at the time it files its Form 15F,[58] it meets that rule's foreign listing requirement. That issuer would also have to meet the proposed foreign listing requirement upon the effectiveness of its Exchange Act termination of registration and reporting under Rule 12h–6 in order to be able to claim the Rule 12g3–2(b) exemption. Since typically that effectiveness occurs 90 days from the date of filing of the Form 15F, we expect most Form 15F filers will satisfy the proposed foreign listing requirement under Rule 12g3–2(b).[59]

Comment Solicited

We solicit comment on the proposed foreign listing condition.

• Should we require an issuer to maintain a listing on one or more exchanges in one or two foreign jurisdictions comprising its primary trading market as a condition to the Rule 12g3–2(b) exemption, as proposed? Should we require that the foreign exchange be part of a recognized national market system or possess certain characteristics? If so, what characteristics would be appropriate?

• Should we define primary trading market to mean that at least 55 percent of the trading in the issuer's subject class of securities took place in, on or through the facilities of a securities market or markets in a single foreign jurisdiction or in no more than two foreign jurisdictions during the issuer's most recently completed fiscal year, as proposed? If not, is there another percentage, such as 50, 51, 60, or some other percent, that is more appropriate?

• Should we permit the trading volume in an issuer's primary trading market to be less than 50 percent of its worldwide trading volume as long as the primary trading market's trading volume is greater than its U.S. trading volume?

• Should we also require that, if a foreign private issuer aggregates the trading of its subject class of securities in two foreign jurisdictions for the purpose of the foreign listing condition, the trading for the issuer's securities in at least one of the two foreign jurisdictions must be larger than the trading in the United States for the same class of the issuer's securities, as proposed? Should we instead permit an issuer to count the trading of its securities only in one foreign jurisdiction or only on one exchange in each of two foreign jurisdictions for the purpose of the foreign listing condition?

• Are there a significant number of issuers that may be listed on a foreign exchange but that would not meet the 55 percent threshold under the primary trading market definition, for example, due to being traded on more than two foreign exchanges, and which would otherwise satisfy the current or proposed conditions of Rule 12g3–2(b)? If so, what are specific examples of those issuers? Should we require those issuers to meet a lower U.S. relative trading volume threshold to be eligible for the Rule 12g3–2(b) exemption? If so, should the threshold be 3, 5, 7, 10 or some other percent of worldwide trading volume? What would be the advantages or disadvantages of such an approach?

• Should we require an issuer to maintain a listing in its jurisdiction of incorporation, organization or domicile instead of, or in addition to, a listing in its primary trading market? Would such a requirement increase the likelihood that a non-U.S. jurisdiction is principally regulating the trading in an issuer's securities?

• Should we permit an unlisted issuer to claim the Rule 12g3–2(b) exemption as long as it publishes voluntarily the same documents that a listed company is required to publish in its home jurisdiction?

[57] Exchange Act Rule 12h–6(a)(3) (17 CFR 240.12h–6(a)(3)) and Exchange Act Rule 12h–6(f)(5) (17 CFR 240.12h–6(f)(5)).

[58] 17 CFR 249.324. Similar to a Form 15, Form 15F is the form that a foreign private issuer must file to certify that it meets the conditions for terminating its Exchange Act registration and reporting obligations under Rule 12h–6.

[59] Unless the Commission objects, termination of an issuer's reporting and registration under Rule 12h–6 is effective 90 days after the filing of its Form 15F. Exchange Act Rule 12h–6(g)(1) (17 CFR 240.12h–6(g)(1)).

C. Proposed Quantitative Standard

1. Trading Volume Benchmark

Proposed Rule 12g3–2(b) would permit an otherwise eligible issuer to claim an exemption from Section 12(g) registration by meeting a quantitative standard that does not depend on a count of the issuer's U.S. holders. Under the proposed rule amendments, regardless of the number of its U.S. holders, an issuer would be eligible to claim the Rule 12g3–2(b) exemption if the average daily trading volume of the subject class of securities in the United States for the issuer's most recently completed fiscal year has been no greater than 20 percent of the average daily trading volume of that class of securities on a worldwide basis for the same period.[60]

We adopted a trading volume benchmark as part of the 2007 amendments concerning foreign deregistration because we believed it to be a more direct and less costly measure of the relative U.S. market interest in a foreign private issuer's securities than one based on a count of the issuer's shareholders.[61] We believe the same considerations apply to the proposed amendments of the rules that determine when a foreign private issuer must register a class of equity securities under Section 12(g). If only 20 percent or less of an issuer's worldwide trading volume occurs in the United States, we believe the relative U.S. market interest in those securities does not warrant subjecting the issuer to Exchange Act reporting requirements.

The 2007 amendments established a trading volume standard that permits a qualified foreign private issuer to terminate its Exchange Act registration and reporting obligations if its U.S. average daily trading volume is no greater than 5 percent of its worldwide average daily trading volume. We believe it is appropriate to have a stricter trading volume standard for determining when an issuer may exit the Exchange Act registration and reporting regime compared to when it must enter that regime. In the former instance, an issuer has availed itself of U.S. market facilities and filed Exchange Act reports upon which U.S. investors have relied. A similar relationship exists between the current shareholder-based standards governing entrance into and exit from the Exchange Act reporting regime.[62]

The proposed rule amendments would require an issuer to calculate U.S. and worldwide trading volume in the same fashion as under Rule 12h–6.[63] Under that rule, when determining its U.S. average daily trading volume, an issuer must include all transactions, whether on-exchange or off-exchange. When determining its worldwide average daily trading volume, an issuer must include on-exchange transactions, and may include off-exchange transactions. The sources of trading volume information may include publicly available sources, market data vendors or other commercial information service providers upon which an issuer has reasonably relied in good faith, and as long as the information does not duplicate any other trading volume information obtained from exchanges or other sources.

The proposed amendments would require an issuer to measure its trading volume for its most recently completed fiscal year. In contrast, Rule 12h–6 enables an issuer to make its trading volume determinations for a recent 12-month period, which is defined as a 12-calendar-month period that ended no more than 60 days before the filing date of an issuer's Form 15F.[64] A rolling 12-month period is appropriate in the context of deregistration since the relevant rules do not require an eligible issuer to deregister within a particular time frame. However, we are not proposing a similar rolling 60-day window for the Rule 12g3–2 amendments since Section 12(g) posits the last day of an issuer's fiscal year as the measuring date for determining whether an issuer must register a class of securities under that statutory section.

2. Rule 12h–6 Issuers

An issuer that terminates its Exchange Act registration and reporting regarding a class of equity securities under Rule 12h–6 must meet either that rule's trading volume benchmark or its record holder standard.[65] Rule 12h–6's trading volume standard requires an issuer's U.S. trading volume to be no greater than 5 percent of its worldwide trading volume, and to be measured over a recent 12-month period.[66] Rule 12h–6's alternative record holder standard requires an issuer's worldwide or U.S. holders to be less than 300.[67] An issuer that has proceeded under either of Rule 12h–6's quantitative provisions obtains the Rule 12g3–2(b) exemption upon the termination of its registration and reporting under Rule 12h–6.

Because a Rule 12h–6 issuer will have met a more stringent trading volume test, although most likely for a different 12-month period, we do not believe it is necessary to require that issuer to recalculate its relative U.S. trading volume for the previous 12 months upon the effectiveness of its deregistration under Rule 12h–6 for the purpose of determining whether it may claim the Rule 12g3–2(b) exemption. Similarly, we believe that an issuer that has satisfied Rule 12h–6's strict record holder standard should continue to be able to claim the Rule 12g3–2(b) exemption upon the termination of its registration and reporting under Rule 12h–6 as long as it meets the proposed Rule 12g3–2(b) foreign listing requirement.

Comment Solicited

We solicit comment on the proposed Rule 12g3–2(b) quantitative provision.

- Should an issuer be able to claim the Rule 12g3–2(b) exemption if the U.S. trading volume of its subject class of securities is no greater than a specified percentage of its worldwide trading volume for the previous 12 months, even if the number of its U.S. shareholders is 300 or greater, as proposed?
- If so, should the U.S. trading volume standard be no greater than 20 percent of worldwide trading volume, as proposed? Should the U.S. trading volume standard instead be no greater than 5, 10, 15, 25, 30 or some other percent of worldwide trading volume?
- Is there another quantitative measure that is a more appropriate measure of relative U.S. investor interest in a foreign private issuer's securities than the proposed trading volume standard?

[60] Proposed Exchange Act Rule 12g3–2(b)(3)(i).

[61] *See* Release No. 34-55540, Parts I.A and II.A.1.a.ii. We also adopted a 20 percent trading volume benchmark in the definition of ''substantial U.S. market interest'' under Regulation S. *See* 17 CFR 230.902(j).

[62] Compare Exchange Act Section 12(g)'s 500 or greater shareholder standard compelling registration with the less than 300 U.S. or worldwide shareholder standard permitting deregistration under Exchange Act Rules 12h–6, 12g–4 and 12h–3.

[63] The instructions for calculating trading volume are set forth in Instruction 3 to Item 4 of Form 15F and in Release No. 34–55540, Part II.A.1.a.ii.

[64] Exchange Act Rule 12h–6(f)(6) (17 CFR 240.12h–6(f)(6)).

[65] Exchange Act Rule 12h–6(a)(4) (17 CFR 240.12h–6(a)(4)). Thus far, most issuers that have terminated their registration and reporting requirements under Rule 12h–6 have relied on the trading volume standard.

[66] Exchange Act Rule 12h–6(a)(4)(i) (17 CFR 240.12h–6(a)(4)(i)). Rule 12h–6(f)(6) (17 CFR 240.12h–6(f)(6)) defines a recent 12-month period to mean a 12-calendar-month period that ended no more than 60 days before the filing date of Form 15F.

[67] Exchange Act Rule 12h–6(a)(4)(ii) (17 CFR 240.12h–6(a)(4)(ii)).

• Should we not impose any quantitative measure relating to U.S. market interest when determining whether a foreign private issuer should be subject to Exchange Act registration?

• Should we require an issuer to determine its relative U.S. trading volume for its most recently completed fiscal year, as proposed? If not, should the measuring period be a shorter period, such as 3 or 6 months? Should it be a longer period, such as 18 or 24 months? Should the measuring period be the same as a recent 12-month period, as under Rule 12h–6?

• Should we require an issuer to calculate its U.S. and worldwide trading volumes as under Rule 12h–6, as proposed? Should we require additional, or different, requirements or guidance regarding off-exchange transactions?

• Should we permit an issuer's sources of trading volume information to include publicly available sources, market data vendors or other commercial information service providers upon which the issuer has reasonably relied in good faith? Are there other parties or services that we should specify as permissible sources of trading volume information?

• Should we permit an issuer that has satisfied Rule 12h–6's trading volume benchmark to claim the Rule 12g3–2(b) exemption upon the effectiveness of its Rule 12h–6 deregistration, assuming it meets the proposed Rule 12g3–2(b) foreign listing requirement, as proposed?

• Similarly should we permit an issuer that has satisfied Rule 12h–6's alternative record holder condition to claim the Rule 12g3–2(b) exemption upon the effectiveness of its Rule 12h–6 deregistration as long as it meets the proposed Rule 12g3–2(b) foreign listing requirement, as proposed?

• Are there some currently Rule 12g3–2(b)-exempt companies that would lose the exemption upon the effectiveness of the proposed rule amendments because their U.S. trading volume exceeds the proposed threshold and the number of their U.S. holders is 300 or greater? If so, are there a significant number of such companies and how should we treat them? Should we provide a transition period for those companies that would grant them a longer period of time before they would have to register their securities under Exchange Act Section 12(g)?[68] Should we provide a ''grandfather'' provision or issue an order that would permit issuers that have currently claimed the exemption under Rule 12g3–2(b), but would exceed the proposed trading volume threshold, to continue to be exempt from Section 12(g) provided that they comply with all other conditions? Provide specific examples of such companies.

• Should we establish a different U.S. trading volume threshold for companies from certain countries or regions, for example, Canada, which may have a greater relative U.S. market presence than other foreign companies? If so, should that threshold be 25, 30, 35 or some higher percent of worldwide trading volume?

D. Proposed Electronic Publishing of Non-U.S. Disclosure Documents

1. Electronic Publishing Requirement To Claim Exemption

Unless in connection with or following a recent Exchange Act deregistration, in order to claim the Rule 12g3–2(b) exemption, the proposed amendments would require an issuer to have published in English, on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market, information that, from the first day of its most recently completed fiscal year, it:

• Has made public or been required to make public pursuant to the laws of the country of its incorporation, organization or domicile;

• Has filed or been required to file with the principal stock exchange in its primary trading market on which its securities are traded and which has been made public by that exchange; and

• Has distributed or been required to distribute to its security holders.[69]

These are the same categories of information that the Commission has historically required a non-reporting company to submit in paper when applying for the exemption under Rule 12g3–2(b).[70] They also are the same non-U.S. disclosure documents that, more recently, the Commission has required an issuer to publish electronically in order to maintain its Rule 12g3–2(b) exemption claimed upon the effectiveness of its deregistration under Rule 12h–6.[71]

The purpose of this non-U.S. publication condition is to provide U.S. investors with ready access to material information when trading in the issuer's equity securities in the over-the-counter market.[72] This condition also would assist U.S. investors who are interested in trading the issuer's securities in its primary securities market. Moreover, having a foreign private issuer's key non-U.S. disclosure documents electronically published in English would assist broker-dealers in meeting their Rule 15c2–11 obligations to investors and facilitate resales of that issuer's securities to qualified institutional buyers under Rule 144A.

As under the current rule, the proposed amendments would require an issuer only to publish electronically information that is material to an investment decision regarding the subject securities,[73] such as:

• Results of operations or financial condition;

• Changes in business;

• Acquisitions or dispositions of assets;

• The issuance, redemption or acquisition of securities;

• Changes in management or control;

• The granting of options or the payment of other remuneration to directors or officers; and

• Transactions with directors, officers or principal security holders.[74]

As is currently required of an issuer that has terminated its Exchange Act registration and reporting obligations under Rule 12h–6,[75] the proposed rule amendments would require any issuer claiming the Rule 12g3–2(b) exemption to publish electronically, at a minimum, English translations of the following documents if in a foreign language:

• Its annual report, including or accompanied by annual financial statements;

• Interim reports that include financial statements;

• Press releases; and

• All other communications and documents distributed directly to security holders of each class of

[68] *See* Part II.L. of this release for discussion of a proposed three-year transition period.

[69] Proposed Exchange Act Rule 12g3–2(b)(4)(i).

[70] Exchange Act Rules 12g3–2(b)(1)(i).

[71] Exchange Act Rule 12g3–2(e)(2) (17 CFR 240. 12g3–2(e)(2)).

[72] Any trading of a foreign private issuer's Rule 12g3–2(b) exempt securities in the United States would have to occur through an over-the-counter market such as that maintained by the Pink Sheets, LLC since, as of April, 1998, the NASD has required a foreign private issuer to register a class of securities under Exchange Act Section 12 before its securities could be traded through the electronic over-the-counter bulletin board administered by Nasdaq. See, for example, NASD Notice to Members (January 1998).

[73] Proposed Exchange Act Rule 12g3–2(b)(4)(ii). Athough the substantive requirements are the same, we have proposed conforming changes to General Instruction E and Part II, Item 9 of Form 15F to reflect the proposed renumbering of the non-U.S. publication requirements of Rule 12g3–2(b).

[74] These are the same types of information specified in current Exchange Act Rule 12g3–2(b)(3)) (17 CFR 240.12g3–2(b)(3)).

[75] Note 1 to Exchange Act Rule 12g3–2(e) (17 CFR 240.12g3–2(e)).

securities to which the exemption relates.[76]

These are the same documents for which the Commission staff has historically required English translations because of their importance to investors.[77]

As proposed, an issuer that claimed the Rule 12g3–2(b) exemption, in connection with or following the recent effectiveness of its Exchange Act deregistration, would not have to comply with the electronic publication requirement for its last fiscal year.[78] Since a recently deregistered company will already have filed its Exchange Act reports on EDGAR for its most recently completed fiscal year, such a prior year publication requirement is not necessary to protect investors.

2. Electronic Publishing Requirement To Maintain Exemption

In order to maintain the Rule 12g3–2(b) exemption, the proposed amendments would require an issuer to publish the same information specified in the prior fiscal year provision, on an ongoing basis and for subsequent fiscal years, on its Internet Web site or through an electronic information delivery system in its primary trading market.[79] This requirement would apply to any issuer claiming the exemption, whether or not a former Exchange Act registrant. Like the prior fiscal year publication condition, this ongoing publication condition would help assure that investors and other market participants have access to an issuer's specified non-U.S. disclosure documents, in English, which are material to an investment decision.

Similar to the current rule,[80] the proposed rule amendments would require an issuer to publish electronically its non-U.S. disclosure documents promptly after the information has been made public, pursuant to its home jurisdiction laws, non-U.S. stock exchange rules, or shareholder rules and practices.[81] As under current Commission staff practice, what constitutes ''promptly'' would depend on the type of document and the amount of time required to prepare an English translation. Currently an issuer typically must electronically publish or submit in paper a copy of a material press release on the same business day of its original publication.

The proposed amendments would permit an issuer to meet Rule 12g3–2(b)'s electronic publication requirement concurrently with the publishing in English of a non-U.S. disclosure document through an electronic information delivery system generally available to the public in its primary trading market. Thus, if an issuer's non-U.S. stock exchange or securities regulatory authority permits the issuer to publish electronically a required report on its electronic delivery system, and the public has ready access to the report and other documents maintained on the system,[82] that electronic publication solely would satisfy the proposed Rule 12g3–2(b)'s electronic publishing requirements.

Comment Solicited

We solicit comment on the proposed condition requiring an issuer to publish electronically its non-U.S. disclosure documents.

- Should we require an issuer to publish its non-U.S. disclosure documents, made public since the beginning of its most recently completed fiscal year, on its Internet Web site or through an electronic information delivery system in its primary trading market, as a condition to claiming the Rule 12g3–2(b) exemption, other than in connection with or following the issuer's recent deregistration, as proposed? Should we also require an issuer that has recently deregistered to publish those non-U.S. disclosure documents on its Internet Web site or through an electronic information delivery system if it has not already done so as a condition to claiming the exemption?
- Should we require an issuer to publish electronically its non-U.S. disclosure documents on an ongoing basis and for subsequent fiscal years as a condition to maintaining the Rule 12g3–2(b) exemption, as proposed?
- Since one purpose of the proposed foreign listing condition is to increase the likelihood that another jurisdiction has regulatory oversight of an issuer, should we expand the jurisdictional scope of the required non-U.S. disclosure documents such that it includes all documents that the issuer has made or is required to make public under the law of any jurisdiction in its primary trading market? Should all documents, provided they are material, required to be published by an issuer pursuant to any governmental authority or stock exchange be included in the scope of non-U.S. disclosure documents?
- Where an issuer is organized in one jurisdiction and domiciled in another, should the issuer have to comply voluntarily with the obligations of both jurisdictions, or only one? If only one, should the issuer be permitted to elect which one or should the manner of choosing be specified by rule? If so, what standards should govern the decision?
- For both the conditions to claim and maintain the Rule 12g3–2(b) exemption, should we require an issuer to publish electronically the types of information deemed to be material as specified in the proposed rule? Are there other types of information that should be expressly stated in the non-exclusive list of deemed material information? Are there types of information that should be excluded from the list of required material documents?
- For both the conditions to claim and maintain the Rule 12g3–2(b) exemption, should we permit an issuer to publish its non-U.S. disclosure documents through an electronic information delivery system that is generally available to the public, even if that system is located outside of the issuer's primary trading market?
- Should we permit an issuer to satisfy the rule's electronic publication requirements concurrently with the publishing of its non-U.S. disclosure document through an electronic information delivery system that is generally publicly available in the issuer's primary trading market, as proposed? Should we also require the issuer to publish its non-U.S. document on its Internet Web site?
- Is it reasonable to expect that all electronic information delivery systems that are generally available to the public will be accessible and useable by U.S. investors? Should we require an issuer to publish its non-U.S. disclosure documents on its Internet Web site if the electronic delivery system is not navigable in English or requires users to register or pay a fee for access? Should we require an issuer to note on its Internet Web site that documents supplied to maintain the Rule 12g3–2(b) exemption are available on an electronic

[76] Proposed Exchange Act Rule 12g3–2(b)(4)(iii).

[77] Current Rule 12g3–2(b)(4) (17 CFR 240.12g3–2(b)(4)) specifies only that press releases and shareholder communications must be in English. It also states that an issuer may provide an English summary or version instead of an English translation. However, Commission staff has consistently administered the current rule to require English translations of financial statements and the other specified documents because of their importance to investors.

[78] Proposed Note 3 to proposed Exchange Act Rule 12(g)3–2(b).

[79] Proposed Exchange Act Rule 12g3–2(c)(1).

[80] Exchange Act Rule 12g3–2(b)(1)(iii).

[81] Proposed Exchange Act Rule 12g3–2(c)(2). Form 6–K imposes a similar requirement.

[82] An example of such a system is the System for Electronic Document Analysis and Retrieval (''SEDAR'') maintained by the Canadian Securities Administrators.

delivery system, and provide a link to that system?

• Should we require an issuer to publish electronically an English translation of the specified non-U.S. documents, as proposed? Are there other documents that should be subject to an English translation requirement? Should we exclude any of the specified documents from the English translation requirement? Will a translation requirement into English inadvertently encourage issuers to provide the minimal level of disclosure in their primary trading market in order to limit the burden of translating such documents into English?

• Should we provide specific guidance regarding when an issuer may provide an English summary instead of a line-by-line English translation of a required non-U.S. disclosure document? For example, should we permit an issuer to provide English summaries of certain non-U.S. documents, for example, interim reports, or sections of such reports, that do not contain financial statements, and other foreign language documents for which English summaries are permitted under cover of Form 6–K, as long as the English summaries are permitted by, and meet the requirements of Exchange Act Rule 12b–12(d)?[83]

• Should we require an issuer to publish electronically a non-U.S. document required to be filed with its non-U.S. regulator or non-U.S. exchange, but which is not made public by that non-U.S. regulator or non-U.S. exchange, if it is material to investors?

• Should we require an issuer to maintain the publishing of specified documents on its Internet Web site for a particular length of time? If so, which documents and for what length? For example, should we require an issuer to post its annual report on its Internet Web site for 1, 2 or 3 years, interim or current reports for 1 or 2 years, and press releases for 6 months or 1 year?

• Should we require an issuer to commence publishing electronically the required non-U.S. disclosure documents before the date that its Section 12(g) registration statement would be due, as a condition to the Rule 12g3–2(b) exemption?

• For the condition to maintain the Rule 12g3–2(b) exemption, should we require an issuer to publish electronically a required non-U.S. disclosure document promptly after the document has been published pursuant to its home jurisdiction laws, stock exchange rules, or shareholder rules and practices, as proposed? Should we instead provide a particular due date for the electronic publication of a specified document?

• Should the Commission permit or require an issuer to publish its non-U.S. disclosure documents on EDGAR or through another specified central electronic repository for documents instead of requiring the publishing of those documents on an issuer's Internet Web site or through an electronic information delivery system in its primary trading market?

E. Proposed Elimination of the Written Application Requirement

Currently in order to obtain the Rule 12g3–2(b) exemption, if not proceeding under Rule 12h–6, a foreign private issuer must submit written materials, typically in the form of a letter application, to the Commission. These materials must include a list of the issuer's non-U.S. disclosure requirements, the number of U.S. holders of its subject securities and the percentage of outstanding shares held by them, the circumstances in which its U.S. holders acquired those securities, and the date and circumstances of the most recent public distribution of the securities of the issuer or its affiliate.[84] As part of the written application, an issuer must also submit copies of its non-U.S. disclosure documents published since the first day of its most recently completed fiscal year.[85] An issuer must submit this information, together with all of the supporting documents, in paper only.

We are proposing to eliminate Rule 12g3–2(b)'s written application process for all foreign private issuers. As proposed, an issuer may claim the Rule 12g3–2(b) exemption as long as it satisfies the rule's conditions. This proposal is consistent with our adoption of an automatic grant of the Rule 12g3–2(b) exemption upon the effectiveness of an issuer's deregistration under Rule 12h–6. Moreover, since we are proposing to permit an issuer to claim the Rule 12g3–2(b) exemption based on a trading volume measure, regardless of the number of its U.S. shareholders, the current shareholder information requirement would be of marginal use. Further, since, as proposed, as a condition to claiming and maintaining the Rule 12g3–2(b) exemption, an issuer would have to publish electronically its non-U.S. disclosure documents, investors would be able to ascertain many of the issuer's non-U.S. disclosure requirements from a review of those publicly available documents.[86]

Comment Solicited

We solicit comment on the proposed elimination of the written application process for the Rule 12g3–2(b) exemption.

• Should we permit an issuer, which has not terminated its registration and reporting obligations under Rule 12h–6, to claim the Rule 12g3–2(b) exemption as long as it meets the proposed rule's conditions, without submitting a written application to the Commission, as proposed?

• Should we continue to permit an issuer to claim the Rule 12g3–2(b) exemption automatically upon the effectiveness of its deregistration under Rule 12h–6, as proposed?

• As a condition of claiming or maintaining the Rule 12g3–2(b) exemption, should we require an issuer to publish, and to update as necessary, a list of its non-U.S. disclosure requirements on its Internet Web site or its primary trading market's electronic information delivery system?

• As a condition of claiming or maintaining the Rule 12g3–2(b) exemption, should we require an issuer to publish electronically other information with respect to its eligibility for the Rule 12g3–2(b) exemption, for example, identification of its non-U.S. primary market, and its U.S. trading volume as a percentage of its worldwide trading volume for its most recently completed fiscal year?

• What use do investors currently make of the information contained in an initial application under Rule 12g3–2(b)? Does it assist them in making informed investment decisions?

• If it is appropriate to eliminate the application process for the Rule 12g3–2(b) exemption, as proposed, should we at least require an issuer to notify the Commission that it is claiming the Rule 12g3–2(b) exemption? If so, what form should the notification take? Would the filing of an amended Form F–6, as proposed, serve as sufficient notice for most issuers claiming the Rule 12g3–2(b) exemption?

[83] 17 CFR 240.12b–12(d).

[84] Exchange Act Rules 12g3–2(b)(1), (2) and (5). An issuer is also required to furnish a revised list of its non-U.S. disclosure requirements at the end of any fiscal year in which those requirements changed. Rule 12g3–2(b)(1)(iv) (17 CFR 240.12g3–2(b)(1)(iv)).

[85] Exchange Act Rule 12g3–2(b)(1)(i).

[86] From time to time, the Commission has published a list of issuers claiming the Rule 12g3–2(b) exemption that have submitted relatively current information pursuant to that rule. *See,* for example, Release No. 34–51893 (June 21, 2005), 70 FR 37128 (June 28, 2005). Commission staff has compiled this list based on a review of submitted paper documents. As part of the streamlining of the Rule 12g3–2(b) process that the proposed rule amendments are intended to effect, the Commission anticipates it would no longer publish these lists subsequent to the effective date of the new rules.

• What effects, if any, would the proposed elimination of the written application requirement and the lack of a formal notice requirement have on other market participants, for example, broker-dealers and their ability to fulfill their Rule 15c2–11 obligations to investors or facilitate the resale of a foreign company's securities to QIBs in the United States under Securities Act Rule 144A?

F. Proposed Duration of the Amended Rule 12g3–2(b) Exemption

The proposed Rule 12g3–2(b) exemption would remain in effect for as long as a foreign private issuer satisfies the electronic publication condition, or until:

• The issuer no longer maintains a listing for the subject class of securities on one or more exchanges in its primary trading market;

• The average daily trading volume of the subject class of securities in the United States exceeds 20 percent of the average daily trading volume of that class of securities on a worldwide basis for the issuer's most recently completed fiscal year, other than the year in which the issuer first claims the exemption; or

• The issuer registers a class of securities under Section 12 of the Act or incurs reporting obligations under Section 15(d) of the Act.[87]

This proposed duration would apply to both non-reporting issuers as well as issuers claiming the Rule 12g3–2(b) exemption following their deregistration pursuant to Rule 12h–6, 12g–4, or 12h–3 or the statutory terms of Section 15(d).

The proposed duration of the amended Rule 12g3–2(b) exemption is similar to the duration of the current exemption. Both depend on an issuer's continued compliance with the non-U.S. publication requirements. Under both provisions, Section 12 registration or the incurrence of Section 15(d) reporting obligations terminates the exemption.[88] Moreover, currently, if an issuer can no longer claim the Rule 12g3–2(b) exemption because it has not complied with the rule's non-U.S. publication requirements, it must determine on the last day of the fiscal year whether, because of its record holder count, it must register a class of securities under Section 12(g). The same would hold true under the proposed rule amendments for a non-compliant issuer.

As proposed, an issuer would lose the Rule 12g3–2(b) exemption if it no longer was listed on an exchange in its primary trading market. We believe this provision is necessary in order to help ensure the continued availability of a set of non-U.S. disclosure documents to which investors may turn when making decisions regarding an issuer's securities. We imposed a similar foreign listing condition when we adopted Rule 12h–6, although we did not explicitly provide that an issuer that ceased to meet the foreign listing condition would not be eligible to claim or maintain the Rule 12g3–2(b) exemption following its deregistration under Rule 12h–6. The proposed amendments would clarify that, because of the importance of the foreign listing requirement, any issuer that ceases to comply with that requirement would lose the Rule 12g3–2(b) exemption.

Under the proposed rule amendments, if relying on Rule 12g3–2(b)'s 20 percent trading volume standard, an issuer would have to determine at the end of each fiscal year, other than the year in which it first claims the exemption, whether it still met that standard, even if the issuer was in compliance with the non-U.S. publication requirements. We believe this treatment is warranted in order to protect investors. Moreover, trading volume information is more easily obtainable than information regarding a foreign private issuer's U.S. and worldwide shareholders, and the trading volume standard provides a more direct measure of relative U.S. market interest in an issuer's securities. An issuer would not have to make the trading volume determination for the fiscal year in which the issuer first claimed the exemption, however, in order to provide a reasonably long enough period to assess relative U.S. market interest for the issuer's securities.

Comment Solicited

We solicit comment on the proposed duration of the Rule 12g3–2(b) exemption.

• Should an issuer be able to claim the Rule 12g3–2(b) exemption only for as long as it complies with the rule's non-U.S. publication requirement, as proposed?

• Should an issuer lose the Rule 12g3–2(b) exemption if its U.S. trading volume exceeds 20 percent of its worldwide trading volume for its most recently completed fiscal year, other than the year in which the issuer first claimed the exemption, even if the issuer has fully complied with Rule 12g3–2(b)'s non-U.S. jurisdiction publication requirement, as proposed? Should an issuer have to make the trading volume determination for the fiscal year in which the issuer first claims the exemption as well? Or should compliance with the rule's non-U.S. publication and foreign listing requirements suffice as a basis for continuing the exemption, regardless of the relative U.S. trading volume of its securities?

• Should an issuer be able to claim the Rule 12g3–2(b) exemption only for as long as it maintains a listing in its primary trading market, as proposed? Should it instead be able to continue to claim the exemption if, despite being delisted in its primary trading market, it voluntarily continues to publish electronically the documents required by its former foreign exchange and its U.S. trading volume remains at 20 percent or less of its worldwide trading volume?

• Should an issuer no longer be able to claim the Rule 12g3–2(b) exemption if it registers the same or a different class of securities under Exchange Act Section 12(g) or incurs reporting obligations as to such a class under Section 15(d), as proposed? Should an issuer instead be able to maintain the Rule 12g3–2(b) exemption for a class of equity securities if it incurs Section 15(d) reporting obligations regarding debt securities?

• Should other factors or conditions cause an issuer to lose the Rule 12g3–2(b) exemption? For example, if an issuer sells a significant percentage of its equity securities to U.S. investors in one or more exempt transactions during a specified period of time, such as six months or a year, should it be able to continue to claim the Rule 12g3–2(b) exemption as long as its U.S. trading volume does not exceed 20 percent of its worldwide trading volume at the end of that year? Is there a point when the percentage of outstanding shares owned by U.S. investors becomes as or more important than relative U.S. trading volume as a measure of U.S. market interest for determining the duration of the Rule 12g3–2(b) exemption? If so, what is that point?

G. Proposed Elimination of the Successor Issuer Prohibition

Currently an issuer may not obtain the Rule 12g3–2(b) exemption if, following the issuance of shares to acquire by merger, consolidation, exchange of securities or acquisition of assets, it has succeeded to the Exchange Act reporting obligations of another issuer.[89] The sole exception has been for

[87] Proposed Rule 12g3–2(d).

[88] *See,* for example, Exchange Act Rule 12g3–2(e)(3) (17 CFR 240.12g3–2(e)(3)).

[89] Exchange Act Rule 12g3–2(d)(2). An issuer succeeds to the Exchange Act reporting obligations of another either under Exchange Act Rule 12g–3 (17 CFR 240. 12g–3) or 15d–5 (17 CFR 240.15d–5).

Canadian companies that registered the securities to be issued in the transaction on specified MJDS registration statements under the Securities Act.[90]

As part of the 2007 rule amendments, we adopted a provision that permits a successor issuer to terminate its newly acquired Exchange Act reporting obligations as long as it meets Rule 12h–6's substantive requirements for equity or debt securities issuers.[91] That provision permits a successor issuer to take into account the reporting history of its predecessor when determining whether it meets Rule 12h–6's prior reporting condition.[92] Under that rule, a non-Exchange Act reporting foreign private issuer that has acquired a reporting foreign private issuer in a transaction exempt under the Securities Act, for example, under Rule 802 [93] or Securities Act Section 3(a)(10),[94] may qualify immediately for termination of its Exchange Act reporting obligations under Rule 12h–6, without having to file an Exchange Act annual report, as long as the acquired company's reporting history fulfills Rule 12h–6's prior reporting condition and the successor issuer meets the rule's other conditions.

When adopting Rule 12h–6's successor issuer provision, we amended Exchange Act Rule 12g3–2(d) to permit a successor issuer to claim the Rule 12g3–2(b) exemption upon the effectiveness of its termination of Exchange Act registration and reporting under Rule 12h–6. We see no reason to treat differently a successor issuer that qualifies for deregistration under one of the older exit rules or under Section 15(d). Accordingly, we propose to eliminate the successor issuer provision in its entirety, which would permit a successor issuer to claim the Rule 12g3–2(b) exemption upon the effectiveness of its exit from the Exchange Act reporting regime whether under Rule 12h–6, 12g–4 or 12h–3 or Section 15(d).

Comment Solicited

We solicit comment on the proposed elimination of the successor issuer prohibition.

- Should we permit a successor issuer to claim the Rule 12g3–2(b) exemption upon the effectiveness of its exit from the Exchange Act reporting regime under Rule 12g–4, Rule 12h–3 or Section 15(d), as proposed?

H. Proposed Elimination of the Rule 12g3–2(b) Exception for MJDS Filers

When the Commission adopted its Multijurisdictional Disclosure System (MJDS) for Canadian issuers, it amended Rule 12g3–2 to make the Rule 12g3–2(b) exemption available to Canadian issuers that have only filed with the Commission specified MJDS registration statements,[95] although they may have filed those registration statements within the previous 18 months or to effect transactions in which they would succeed to Exchange Act reporting obligations.[96] The reason for these exemptions was to encourage Canadian issuers to use the MJDS.[97] Bercause the proposed amendments would eliminate the 18 month and successor issuer prohibitions under Rule 12g3–2(b), they would remove as unnecessary the MJDS filer exceptions to those prohibitions.

When adopting the MJDS, the Commission also permitted a Canadian issuer that already had the Rule 12g3–2(b) exemption, but that subsequently acquired Exchange Act reporting obligations as a MJDS filer, for example, with regard to a class of debt securities, to retain the Rule 12g3–2(b) exemption for its equity securities. The Commission permitted that issuer to submit its non-U.S. disclosure documents simultaneously to fulfill its Exchange Act reporting obligations under the MJDS and its non-U.S. publication obligations under Rule 12g3–2(b). The Commission then amended Form 40–F [98] and Form 6–K [99] to require an issuer to disclose on the cover page that it was filing the form for that dual purpose.[100] Under the current rules, a Canadian issuer that checks the appropriate box on the cover of each filed Form 40–F and submitted Form 6–K is able to use those Exchange Act reports to maintain its Rule 12g3–2(b) exemption as well.

This dual use of MJDS Exchange Act reports was reasonable at the time that the Commission adopted the MJDS since a Canadian issuer had to file or submit substantially the same Canadian disclosure documents for Exchange Act purposes as it did to maintain the Rule 12g3–2(b) exemption. However, this is no longer the case. Since the enactment of the Sarbanes-Oxley Act,[101] and Commission rules adopted under that Act, Canadian issuers must respond to several U.S. disclosure requirements when preparing their Form 40–F annual reports.[102]

Accordingly, we are proposing to eliminate the current, but rarely used, ability of a Canadian company, which has Exchange Act reporting obligations solely from having filed an effective MJDS registration statement under the Securities Act, to claim simultaneously the Rule 12g3–2(b) exemption. Under the proposed rule amendments, a MJDS registrant would be eligible to claim the Rule 12g3–2(b) exemption on the same grounds as other foreign registrants. If it has recently exited the Exchange Act reporting regime under Rule 12h–6, 12g–4 or 12h–3 or Section 15(d), it could claim the exemption, assuming it satisfied the proposed rule amendments' other conditions. Otherwise, the filing of a MJDS registration statement under the Securities Act or Exchange Act would trigger Exchange Act reporting obligations and preclude that issuer from claiming the exemption.[103]

Comment Solicited

We solicit comment on the proposed elimination of the Rule 12g3–2(b) exception for MJDS filers.

- Should we eliminate the ability of a MJDS issuer to claim the Rule 12g3–2(b) exemption while having Exchange Act reporting obligations, as proposed?

I. Proposed Elimination of the "Automated Inter-Dealer Quotation System" Prohibition and Related Grandfathering Provision

Under the existing rules, a foreign private issuer generally may not claim the Rule 12g3–2(b) exemption if it has securities or ADRs quoted in the United States on an automated inter-dealer quotation system,[104] which, until recently, referred to the inter-dealer quotation system administered by the National Association of Securities

[90] The specified MJDS registration statements are Forms F–8, F–9, F–10 and F–80 (17 CFR 239.38, 239.39, 239.40, and 239.41).

[91] 17 CFR 240.12h–6(d).

[92] Exchange Act Rule 12h–6(d)(2) (17 CFR 240.12h–6(d)(2)).

[93] Securities Act Rule 802 (17 CFR 230.802).

[94] 15 U.S.C. 77c(a)(10).

[95] Release No. 33–6902 (June 21, 1991), 56 FR 30036 (July 1, 1991). The MJDS generally permits a qualified Canadian issuer to file with the Commission its Canadian registration statements and reports under cover of the MJDS forms.

[96] Exchange Act Rules 12g3–2(d)(1) and (2).

[97] Release No. 33–6879 (October 22, 1990), 55 FR 462881 (November 2, 1990), as adopted in Release No. 33–6902.

[98] 17 CFR 249.240f. Form 40–F is the MJDS form used for the filing of an Exchange Act registration statement or annual report.

[99] Like non-MJDS foreign registrants, a MJDS filer uses Form 6–K to submit its interim home jurisdiction documents.

[100] Release Nos. 33–6902 and 33–6879.

[101] Pub. L. 107–204, 116 Stat. 745 (2002).

[102] *See,* for example, Form 40–F's certifications required concerning an issuer's disclosure controls and procedures and its internal controls over financial reporting, and the disclosure required concerning its audit committee financial expert, its code of ethics, and its off-balance sheet arrangements.

[103] The proposed amendments would remove the instruction on the cover page of Form 40–F and Form 6–K requiring a registrant to indicate whether it also was furnishing the materials pursuant to Rule 12g3–2(b).

[104] Exchange Act Rule 12g3–2(d)(3) (17 CFR 240.12g3–2(d)(3)).

Dealers Inc., and known as Nasdaq. The Commission adopted this prohibition in 1983 because of its belief that, since its establishment in 1971, Nasdaq had so matured into a trading system with substantial similarities to a national securities exchange that Nasdaq-traded companies should be required to meet the same disclosure standards as exchange-traded companies.[105] We are proposing to eliminate this prohibition because Nasdaq has since become a national securities exchange.[106]

When the Commission adopted the automatic inter-dealer quotation system prohibition, it recognized that the general prohibition could cause some Nasdaq-quoted foreign companies that already had obtained the Rule 12g3–2(b) exemption to withdraw from Nasdaq. Therefore, the Commission excepted from that prohibition securities that:

- Were quoted on Nasdaq on October 5, 1983 and have been continuously traded since;
- were exempt under Rule 12g3–2(b) on October 5, 1983 and have remained so since; and
- after January 2, 1986, were issued by a non-Canadian company.[107]

Since the adoption of this grandfathering provision, only nine of the grandfathered issuers remain listed on Nasdaq.[108] Pursuant to Commission order, Nasdaq is now a national securities exchange, and these issuers must register their securities under Exchange Act Section 12(b)[109] by August 1, 2009 if they wish to remain listed on Nasdaq.[110] Given these developments, we no longer believe it is necessary to maintain the grandfathering provision for those Nasdaq-listed companies. Pursuant to the terms of the Commission order, as long as the nine grandfathered issuers continue to comply with the conditions of Rule 12g3–2(b), brokers and dealers may trade their securities in reliance on the Rule 12g3–2(b) exemption until the above deadline for Exchange Act registration.

Comment Solicited

We solicit comment on the proposed elimination of Rule 12g3–2(b)'s automatic inter-dealer quotation system prohibition and related grandfathering provision.

- Should we eliminate the automatic inter-dealer quotation system prohibition, as proposed?
- Are there alternative trading systems or other non-exchange trading platforms that raise similar concerns as those that caused the Commission to adopt the Nasdaq-focused automatic inter-dealer quotation system prohibition? If so, should we prohibit an issuer whose securities are traded on those non-exchange systems from relying on the Rule 12g3–2(b) exemption?
- Should we eliminate the grandfathering provision to Rule 12g3–2(b)'s automatic inter-dealer quotation system prohibition, as proposed?

J. Proposed Revisions to Form F–6

We propose to make one revision to Form F–6, the registration statement used to register ADRs under the Securities Act. Currently a registrant of ADRs must state on Form F–6 that the issuer of the deposited securities against which the ADRs will be issued is either an Exchange Act reporting company or furnishes public reports and other documents to the Commission pursuant to Rule 12g3–2(b). The proposed revision would require a Form F–6 registrant to state that, if the issuer of deposited securities is not an Exchange Act reporting company, such issuer publishes information in English required to maintain the Rule 12g3–2(b) exemption on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market. The registrant would also have to disclose the issuer's address of its Internet Web site or the electronic information delivery system in its primary trading market.[111]

Currently an ADR facility may be either sponsored or unsponsored.[112] Under our current regulations, in order for a depositary bank to establish an ADR facility with respect to the shares of a specific foreign private issuer, the issuer must either be an Exchange Act reporting company or furnish public reports and other documents to the Commission pursuant to Rule 12g3–2(b). As a result, a foreign private issuer that does not seek to have its securities traded in the United States in the form of ADRs is able, by not formally claiming the Rule 12g3–2(b) exemption and submitting documents to the Commission, to restrict the ability of ADR depositary banks to establish an unsponsored ADR facility.

We are not proposing to revise our requirement under Form F–6 that the issuer of the deposited securities be either an Exchange Act reporting company or be exempt from registration under Rule 12g3–2(b). Because we are proposing to expand the availability of the Rule 12g3–2(b) exemption so that it will be available to all otherwise eligible foreign private issuers that post materials to their Web sites or make them available through an electronic information delivery system in their primary trading market, ADR depositaries will be able to establish unsponsored ADRs on this expanded group of foreign private issuers. ADR depositaries will also be able to establish sponsored ADR facilities with foreign private issuers that choose to have their shares represented by ADRs in the United States.

Comment Solicited

- Should we require a Form F–6 registrant to disclose on Form F–6 that, if the issuer of deposited securities is not an Exchange Act reporting company, such issuer electronically publishes the documents required to maintain the Rule 12g3–2(b) exemption, and to provide the address of the issuer's Internet Web site or electronic information delivery system in its primary trading market, as proposed?
- Should we clarify the proposed requirement that a registrant that already has an effective Form F–6 for either a sponsored or unsponsored facility has to disclose the address where the issuer of the underlying securities has electronically published its non-U.S. disclosure documents under Rule 12g3–2(b) when the registrant files its first post-effective amendment to the Form F–6 following the effective date of the proposed rule amendments, as intended?
- Should we delete the requirement under Form F–6 that the foreign private issuer whose securities are to be represented by an ADR be an Exchange

[105] Release No. 34–20264 (October 6, 1983), 48 FR 46736 (October 14, 1983).

[106] Nasdaq ceased operations as an automated inter-dealer quotation system and became a national securities exchange effective August 1, 2006. *See* Release No. 34–53128 (January 13, 2006), 71 FR 3550 (January 23, 2006).

[107] Exchange Act Rule 12g3–2(d)(3). The Commission based the more limited grandfathering of Canadian securities on the more active U.S. market for those securities, which had led to abuses under Rule 12g3–2(b). Release No. 34–20264.

[108] Letter from Edward S. Knight to Nancy M. Morris (July 31, 2006), attached to Release No. 34–54240 (July 31, 2006), 71 FR 45246 (August 8, 2006).

[109] 15 U.S.C. 78l(b).

[110] Release No. 34–54241 (July 31, 2006), 71 FR 45359 (August 8, 2006). The Commission granted the grandfathered issuers an additional three years to register their securities under Section 12(b) in order to avoid disruptions in the trading of their securities caused by their delisting from Nasdaq and to provide them with time to meet U.S. disclosure requirements.

[111] Proposed amended Part I, Item 2 of Form F–6.

[112] With a sponsored facility, the issuer of the deposited securities is a party to the deposit agreement along with the depositary and is able to exercise some control regarding the terms and operations of the facility. With an unsponsored facility, the depositary solely controls the terms and operations of the facility.

Act reporting company or be exempt from registration under Rule 12g3–2(b)?

• As a condition to the registration of ADRs on Form F–6 relating to the shares of a foreign private issuer, should we require that the issuer give its consent to the depositary? Should we require that the depositary have notified the foreign private issuer of its intention to register ADRs and have either received an affirmative statement of no objection from the issuer or not received an affirmative statement of objection from the issuer?

K. Proposed Amendment of Exchange Act Rule 15c2–11

Exchange Act Rule 15c2–11 [113] contains requirements that are intended to deter broker-dealers from initiating or resuming quotations for covered over-the-counter securities that may facilitate a fraudulent or manipulative scheme. The Rule currently prohibits a broker-dealer from publishing (or submitting for publication) a quotation for a covered over-the-counter security in a quotation medium unless it has obtained and reviewed current information about the issuer.[114] One of the specified types of information required by Rule 15c2–11 is information furnished to the Commission pursuant to Rule 12g3–2(b). A broker-dealer must make this information reasonably available upon request to any person expressing an interest in a proposed transaction involving the security with the broker-dealer.[115]

We propose to amend Rule 15c2–11 to conform to the proposed rule amendments so that a broker-dealer must have available the information that, since the beginning of its last fiscal year, the issuer has published in order to maintain the Rule 12g3–2(b) exemption. Because some issuers currently still make paper submissions to maintain their Rule 12g3–2(b) exemption, we expect that, during the first year of the amended rules' effectiveness, a broker-dealer may have to resort to both paper submissions and electronically published materials in order to fulfill its Rule 15c2–11 obligations regarding a particular issuer. Eventually, however, a broker-dealer will only have to look to an issuer's electronically published materials for the purpose of Rule 15c2–11.

The proposed amended Rule 15c2–11 would still require a broker-dealer to make reasonably available upon request the information published pursuant to Rule 12g3–2(b). However, a broker-dealer would be able to satisfy this requirement by providing the requesting person with appropriate instructions regarding how to obtain the information electronically. This reflects our view that most investors will have ready access to the electronically published documents of Rule 12g3–2(b)-exempt issuers.

Comment Solicited

We solicit comment on the proposed amendments to Rule 15c2–11.

• Should we require a broker-dealer to have available the information published by an issuer to maintain the Rule 12g3–2(b) exemption, as proposed?

• Should we continue to require a broker-dealer to make this information reasonably available upon request, as proposed? Should a broker-dealer be able to satisfy this requirement by providing appropriate instructions regarding how to obtain the information electronically, as intended?

L. Proposed Transition Periods

1. Regarding Section 12 Registration

While we believe most issuers that currently have the Rule 12g3–2(b) exemption will continue to be able to claim the exemption upon the effectiveness of the proposed rule amendments, some may not be able to do so because their U.S. trading volume exceeded 20 percent of their worldwide trading volume on the last day of their most recently completed fiscal year. Those issuers would have to file a Section 12 registration statement if they are unable to meet all of the amended rule's conditions. In order to provide those issuers with sufficient time to prepare for and complete the Section 12 registration process, including obtaining required audited financial statements, we are proposing to require that those issuers become Exchange Act registrants no later than three years from the effective date of the proposed rule amendments.[116]

We believe this proposed three-year transition period is necessary for the benefit not just of issuers, but of broker-dealers and investors as well. If a currently exempt issuer is unable to claim the Rule 12g3–2(b) exemption upon the effectiveness of the proposed amendments because it cannot satisfy the trading volume threshold, but meets the amended rule's other conditions, it may continue to rely on the exemption during the transition period as long as it complies with the electronic publishing and other conditions, except for the trading volume condition, required to maintain the exemption. Accordingly, during this transition period, a broker-dealer would be able to rely on that issuer's electronic postings to meet its Rule 15c2–11 obligations to investors and to facilitate resales of that issuer's securities in Rule 144A transactions.

Comment Solicited

We solicit comment on the proposed three-year transition period.

• Should we adopt a three-year transition period for currently-exempt issuers that cannot claim the Rule 12g3–2(b) exemption on the effective date of the rule amendments, as proposed?

• Should we instead adopt a shorter transition period, such as a one or two-year transition period? Should we adopt a longer transition period, such as a four or five-year period? Should we not adopt any transition period?

2. Regarding Processing of Paper Submissions

Although the 2007 amendments permitted an issuer that received the Rule 12g3–2(b) exemption upon application to the Commission to publish electronically its non-U.S. disclosure documents required to maintain the exemption, many issuers still submit those documents in paper. The Commission continues to process those paper documents and make them publicly available in the Public Reference Room at its Washington, DC headquarters.

We expect that, following the effectiveness of the proposed rule amendments, some Rule 12g3–2(b)-exempt companies will continue to submit their non-U.S. disclosure documents in paper to the Commission either because they are unaware of the amendments or lack electronic publishing capabilities. Because there may be some investors who currently do not have ready access to the Internet, we are proposing to continue to process paper Rule 12g3–2(b) submissions and make them publicly available in the Public Reference Room for three months following the effectiveness of the rule amendments. Thereafter, the Commission will no longer process paper Rule 12g3–2(b) submissions. An issuer that continues to make Rule 12g3–2(b) submissions in paper after

[113] 17 CFR 240.15c2–11.

[114] Rule 15c2–11(a) (17 CFR 240.15c2–11(a)). The broker-dealer must also have a reasonable basis for believing that the issuer information, when considered along with any supplemental information, is accurate and is from a reliable source.

[115] Rule 15c2–11(a)(4).

[116] We adopted a similar three-year transition period to enable those grandfathered Nasdaq-traded foreign companies that were Rule 12g3–2(b)-exempt to register under Section 12(b) after Nasdaq became an exchange. *See* Release No. 34–54241 (July 31, 2006), 71 FR 45359 (August 8, 2006).

this three-month period, and does not publish the submitted documents electronically as required, would no longer be able to claim the Rule 12g3–2(b) exemption.

We anticipate that three months would be sufficient time for all Rule 12g3–2(b)-exempt issuers to develop the capabilities to publish electronically their non-U.S. disclosure documents. We further anticipate that the proposed three-month transition period would be sufficient to permit investors and other interested persons to determine how and where to access those electronically published documents.

Comment Solicited

We solicit comment on the proposed three-month transition period for the processing of paper Rule 12g3–2(b) submissions.

- Is a transition period necessary to provide issuers with sufficient time to publish electronically their non-U.S. disclosure documents required under Rule 12g3–2(b) or to enable investors to learn how to access those electronically published documents?
- If so, would the three-month transition period be sufficent? Should it be less than three months, such as one month, or two months? Should it be longer than three months, such as six months or one year?

M. Revisions to Form 15

As part of the 2007 amendments, we revised Exchange Act Rules 12g–4 and 12h–3, the older exit rules, by eliminating foreign private issuer provisions that were no longer needed because of the adoption of Rule 12h–6, and by renumbering the remaining provisions accordingly.[117] However, we did not correspondingly revise the cover page of Form 15, which requires an issuer to indicate under which provision of Rule 12g–4 or 12h–3 it is terminating its Section 12(g) registration or suspending its Section 15(d) reporting obligations. Because Form 15 refers to the pre-March 2007 version of Rules 12g–4 and 12h–3, it has understandably engendered some confusion among issuers seeking to file the form. We are today adopting revisions to the cover page of Form 15 to reflect the current version of Rules 12g–4 and 12h–3.[118]

General Request for Comments

We solicit comment on the proposed amendments to Rule 12g3–2(b), (c), (d), (e), and (f), Rule 15c–2(11), and Forms F–6, 40–F, 6–K, and 15F, as well as to all other aspects of the proposed rule amendments. Here and throughout the release, when we solicit comment, we are interested in hearing from all interested parties, including members and representatives of the investing public, representatives of foreign companies and foreign industry groups, representatives of broker-dealers, domestic issuers, and other participants in U.S. securities markets. We are further interested in learning from all parties what aspects of the proposed rule amendments they deem essential, what aspects they believe are preferred but not essential, and what aspects they believe should be modified.

III. Paperwork Reduction Act Analysis

This rule proposal contains ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[119] We are submitting our proposal to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[120] The title of the affected collections of information are submissions under Exchange Act Rule 12g3–2 (OMB Control No. 3235–0119) and Securities Act Form F–6 (OMB Control No. 3235–0292). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Compliance with the proposed amendments to Rule 12g3–2 and Form F–6 will be mandatory.

Exchange Act Rule 12g3–2 is an exemptive rule that, under paragraph (b) of that rule, provides an exemption from Exchange Act section 12(g) registration for a foreign private issuer that, on an ongoing basis, either submits copies of its material non-U.S. disclosure documents to the Commission in paper or publishes those documents on its Internet Web site or through an electronic information delivery system in its primary trading market. We adopted paragraph (b) of Rule 12g3–2 in order to provide information for U.S. investors concerning foreign private issuers with limited securities trading in U.S. capital markets.

Securities Act Form F–6 is the form used to register American Depositary Receipts (''ADRs''), which are a special type of security issued by a U.S. bank, representing a specified amount of securities issued by a foreign company that are deposited with the bank. We adopted Form F–6 in order to provide investors with information concerning a foreign company's ADRs, as disclosed in the deposit agreement, which must be attached as an exhibit to the Form F–6.

The hours and costs associated with making submissions under Exchange Act Rule 12g3–2(b) and preparing, filing and sending Form F–6 constitute reporting and cost burdens imposed by those collections of information. We based our estimates of the effects that the proposed rule amendments would have on those collections of information primarily on our review of the most recently completed PRA submissions for Rule 12g3–2(b) documents and Form F–6, on the particular requirements for those submissions and form, and on other information, for example, concerning relative U.S. trading volume for foreign private issuers whose equity securities trade in the U.S. over-the-counter market.

The proposed amendments to Exchange Act Rule 12g3–2 would permit a foreign private issuer to claim the Rule 12g3–2(b) exemption, without having to submit paper copies of written materials to the Commission, if, among other requirements, its U.S. average daily trading volume has been no greater than 20 percent of its worldwide average trading volume for its most recently completed fiscal year. The proposed amendments would require a qualifying issuer to publish on an ongoing basis copies of its non-U.S. disclosure documents required by Rule 12g3–2(b) on its Internet Web site, or through an electronic information delivery system in its primary trading market, instead of permitting their submission in paper to the Commission.

The proposed amendments of Form F–6 would require a registrant to state that the issuer of the deposited securities, which is not an Exchange Act reporting company, publishes information in English required to maintain the Rule 12g3–2(b) exemption on the issuer's Internet Web site or through its primary trading market's electronic information delivery system. The proposed amendments would also require the registrant to disclose the address of the issuer's Internet Web site or electronic information delivery system. A registrant that already has an effective Form F–6 would have to disclose the address of where the issuer electronically publishes its non-U.S.

[117] The March 2007 amendments eliminated Exchange Act Rules 12g–4(a)(2)(i) and (ii) (17 CFR 240.12g–4(a)(2)(i) and (ii)) and Rules 12h–3(b)(2)(i) and (ii) (17 CFR 240.12h–3(b)(2)(i) and (ii)), and renumbered Rule 12g–4(a)(1)(i) and (ii) as Rule 12g–4(a)(1) and (2) (17 CFR 240.12g–4(a)(1) and (2)).

[118] As amended, Form 15's cover page refers to Exchange Act Rule 12g–4(a)(1) or (2) and Rule 12h–3(b)(1)(i) or (ii), in addition to Rule 15d–6 (17 CFR 240.15d–6), which remains unchanged. We are adopting these revisions today without soliciting comment because they involve solely a technical matter that does not give rise to any substantive change in the Commission's rules.

[119] 44 U.S.C. 3501, *et seq.*

[120] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

disclosure documents under Rule 12g3–2(b) when the registrant first amends its Form F–6 following the effective date of the proposed rule amendments.

We have prepared the annual burden and cost estimates of the proposed rule amendments on Rule 12g3–2(b) submissions or publications and Form F–6 based on the following current estimates and assumptions:

- A foreign private issuer incurs 75% of the burden required to produce each Rule 12g3–2(b) submission or publication, excluding the initial application for the Rule 12g3–2(b) exemption and English translation work, and 25% of the burden required to perform work for the initial application and English translation for the Rule 12g3–2(b) submissions or publications;
- Outside firms, including legal counsel, accountants and other advisors satisfy 25% of the burden required to produce each Rule 12g3–2(b) submission or publication, not including the initial application for the Rule 12g3–2(b) exemption and English translation work, at an average cost of $400 per hour, 75% of the burden required to produce the initial application at an average cost of $400 per hour, and 75% of the burden resulting from English translation work at an average cost of $125 per hour;
- English translation work constitutes on average 25% of the total work required for the Rule 12g3–2(b) submissions;
- A registrant satisfies 25% of the burden required to produce each Form F–6; and
- Outside firms, including legal counsel, accountants and other advisors, satisfy 75% of the burden required to produce each Form F–6 at an average cost of $400 per hour.

A. Rule 12g3–2(b) Submissions or Publications

We estimate that, under current Rule 12g3–2(b), on an annual basis:

- 1,036 foreign private issuers claim the Rule 12g3–2(b) exemption;
- Each issuer makes on average 12 submissions or publications, for a total of 12,432 submissions or publications under Rule 12g3–2(b);
- Production of those Rule 12g3–2(b) submissions or publications requires a total of 49,728 burden hours, or an average of 4 burden hours per submission or publication (for all work performed by foreign private issuers and outside firms);
- Of those total burden hours, 13,700 hours result from work incurred by 685 issuers to produce their initial Rule 12g3–2(b) applications;[121]
- Foreign private issuers incur a total of 25,943 burden hours [122] to produce the Rule 12g3–2(b) submissions or publications, or an average of 2.1 burden hours per submission or publication;[123] and
- Outside firms perform service at a total cost of $7,656,375 [124] to produce the Rule 12g3–2(b) submissions or publications.[125]

We estimate that, on an annual basis, approximately 150 additional foreign private issuers could claim the Rule 12g3–2(b) exemption as a result of the proposed amendments to Rule 12g3–2. This increase in the number of Rule 12g3–2(b) exempt issuers would cause:

- The number of issuers claiming the Rule 12g3–2(b) exemption to total 1,186;
- The number of Rule 12g3–2(b) publications to total 14,232;[126]
- The number of burden hours required to produce these Rule 12g3–2(b) publications to total 53,928;[127]
- The number of burden hours incurred by foreign private issuers to produce the Rule 12g3–2(b) publications to total 33,706 hours, or 2.4 burden hours per publication;[128] and
- Outside firms perform services at a total cost of $5,308,800 to produce the Rule 12g3–2(b) publications.[129]

B. Form F–6

We currently estimate that, on an annual basis:

- 150 registrants file Form F–6;
- Each registrant files one Form F–6, for a total of 150 Form F–6s;
- Production of these Form F–6s requires 150 burden hours, or one burden hour per Form F–6 (for all work performed by registrants and outside firms);
- Of those total hours, registrants incur 38 hours to produce the Form F–6s, or an average of .25 hours per Form F–6;[130] and
- Outside firms perform services at a total cost of $45,000 to produce the Form F–6s.[131]

We estimate that, on an annual basis, approximately 150 additional registrants could file Form F–6 as a result of the proposed rule amendments. We further estimate that, as a result of the proposed rule amendments, the burden required to produce each Form F–6 would increase by .5 hours. This increase in the number of Form F–6s and burden hours would cause:

- The number of Form F–6s filed to increase by 150 for a total of 300;
- The total hours required to produce the Form F–6s to increase by 225 hours

[121] We previously estimated that 685 issuers obtained the Rule 12g3–2(b) exemption before the adoption of Rule 12h–6, which eliminated the application process for issuers that deregister pursuant to that new rule. *See* Release No. 34–55540. All of the 685 issuers obtained the Rule 12g3–2(b) exemption after having submitted a letter application to the Commission. Based on a review of several Rule 12g3–2(b) applications, and an assessment of Rule 12g3–2(b)'s requirements and current practice, we estimate that it takes approximately 20 hours on average to complete a Rule 12g3–2(b) letter application. 685 × 20 hrs. = 13,700 hrs.

[122] 49,728 hrs. − 13,700 hrs. = 36,028 hrs. for work excluding application work. 36,028 hrs. × .25 = 9,007 hrs. for English translation work. 36,028 hrs. − 9,007 hrs. = 27,021 hrs. × .75 = 20,266 hrs. for non-English translation work. 9,007 hrs. × .25 = 2,252 hrs. for English translation work. 13,700 hrs. × .25 = 3,425 hrs. for application work. 20,266 hrs. + 2,252 hrs. + 3,425 hrs. = 25,943 hrs. for total work performed by foreign private issuers. 25,943 hrs./12,432 = 2.1 hrs per submission or publication.

[123] The last OMB submission for Rule 12g3–2(b) reported 31,080 burden hours for foreign private issuers. Our current estimate of 25,943 burden hours is due to our assessment of the average annual burden hours required to produce written applications under Rule 12g3–2(b), most of which are incurred by outside firms. We are treating the decrease in hours as an adjustment to the previous PRA burden estimate for Rule 12g3–2(b).

[124] 27,021 hrs. × .25 = 6,755 hrs. × $400/hr. = $2,702,000 for non-English translation work. 9,007 hrs. × .75 = 6,755 hrs. × $125/hr. = $844,375 for English translation work. 13,700 hrs. × .75 = 10,275 hrs. × $400/hr. = $4,110,000 for application work. $2,702,000 + $844,375 + $4,110,000 = $7,656,375 for total work performed by outside firms.

[125] The last OMB submission for Rule 12g3–2(b) reported $4,895,100 in total costs for outside firms. Our current estimate of $7,656,375 is due to the previously noted assessment of the average annual burden hours required to produce written applications under Rule 12g3–2(b). We are treating the increase in costs as an adjustment to the previous PRA cost estimate for Rule 12g3–2(b).

[126] 1,186 × 12 hrs. = 14,232.

[127] 14,232 hrs. × 4 = 56,928 hrs. 150 × 20hrs. = 3,000 hrs. saved by the elimination of the written application requirement. 56,928 hrs. − 3,000 hrs. = 53,928 hrs.

[128] 53,928 hrs. × .25 = 13,482 hrs. for English translation work. 53,928 hrs. − 13,482 hrs. = 40,446 hrs.; 40,446 hrs. × .75 = 30,335 hrs. for non-English translation work; 13,482 hrs. × .25 = 3,371 hrs. for English translation work; 30,335 hrs. + 3,371 hrs. = 33,706 total hrs. incurred by foreign private issuers. 33,706 hrs./14,232 = 2.4 hrs. per publication. Of the 33,706 hrs., + 7,763 hrs. result from the proposed rule change and − 5,137 hrs. result from the previously noted program adjustment. 7,763 hrs. − 5,137 hrs. = a net increase of 2,626 hrs. from the previous PRA estimate for Rule 12g3–2(b).

[129] 40,446 hrs. × .25 = 10,112 hrs. × $400/hr. = $4,044,800 for non-English translation work; 13,482 hrs. × .75 = 10,112 hrs. × $125/hr. = $1,264,000 for English translation work; $4,044,800 + $1,264,000 = $5,308,800 for total costs incurred by outside firms. Of the total costs, − $2,347,575 result from the proposed rule change and + $2,761,275 result from the previously noted program adjustment. $2,761,275 − $2,347,575 = a net increase of $413,700 from the previous PRA estimate for Rule 12g3–2(b).

[130] 150 hrs. × .25 = 38 hrs.

[131] 150 hrs. × .75 × $400/hr. = $45,000.

for a total of 375 hours, or 1.25 hours per Form F–6;[132]

- The number of burden hours incurred by registrants to produce the Form F–6s to increase by 56 hours to 94 hours, or .33 hours per Form F–6;[133] and
- Outside firms to perform services at a total cost of $112,400 (an increase of $67,400) to produce the Form F–6s.[134]

IV. Cost-Benefit Analysis

A. Expected Benefits

The proposed rule amendments are designed to encourage more foreign companies with relatively limited U.S. market interest to claim the Rule 12g3–2(b) exemption, and thereby publish on the Internet material documents in English, enhancing the ability of U.S. investors to trade equity securities of such companies in the U.S. over-the-counter market. The Rule 12g3–2(b) exemption permits a foreign company to have established an ADR facility under which its equity securities are traded as ADRs in the U.S. over-the-counter market for the convenience of U.S. investors, even if its U.S. investors exceed the Section 12(g) shareholder thresholds.[135] The Rule 12g3–2(b) exemption also permits a foreign company to trade its equity securities in the form of ordinary shares through the U.S. over-the-counter market, makes it easier for broker-dealers to fulfill their obligations under Exchange Act Rule 15c2–11 to investors, and facilitates the resale of a foreign company's securities to qualified institutional buyers in the United States under Securities Act Rule 144A. By encouraging more foreign companies to claim the Rule 12g3–2(b) exemption, the proposed rule amendments should benefit investors by enhancing their ability to invest in foreign securities in the United States over-the-counter market.

The proposed rule amendments would encourage more foreign companies to claim the Rule 12g3–2(b) exemption by reducing the costs of obtaining that exemption for foreign private issuers in two ways. First, the proposed amendments would enable an otherwise eligible issuer to claim the Rule 12g3–2(b) exemption, regardless of the number of its U.S. security holders, as long as the U.S. trading volume for its subject class of equity securities was no greater than ten percent of its worldwide trading volume for its most recently completed fiscal year. Currently Rule 12g3–2(b) requires an issuer to disclose the number of its U.S. security holders and the percentage of its outstanding securities held by them when applying for the Rule's exemption from Exchange Act registration.[136] Since it is typically more difficult for a foreign company to calculate the number of its U.S. holders than to determine its relative U.S. trading volume, the proposed rule amendments should make it easier for more foreign companies to determine whether they qualify for the exemption.

Second, the proposed rule amendments would eliminate the current written application process that requires an issuer to submit in paper specified information concerning, for example, its non-U.S. disclosure requirements, along with paper copies of its non-U.S. disclosure documents published since the beginning of its last fiscal year. Since outside law firms typically perform most of the work required for the application, the proposed rule amendments should reduce Rule 12g3–2(b) costs for foreign companies and encourage more of them to claim the Rule 12g3–2(b) exemption.

The proposed rule amendments would further benefit investors by requiring any foreign company that claims the Rule 12g3–2(b) exemption to publish in English specified non-U.S. disclosure documents on its Internet Web site or through an electronic information delivery system that is generally available to the public in its primary trading market. Currently an issuer that has obtained the Rule 12g3–2(b) exemption upon application may submit its non-U.S. documents on an ongoing basis in paper to the Commission. By requiring the electronic publication in English of specified non-U.S. documents for any issuer claiming the Rule 12g3–2(b) exemption, the proposed amendments should make it easier for U.S. investors to gain access to a foreign private issuer's material non-U.S. disclosure documents and make better informed decisions regarding whether to invest in that issuer's equity securities.

B. Expected Costs

Investors could incur costs from the proposed rule amendments to the extent that the proposed amendments encourage more foreign companies, which otherwise would be required to register their equity securities under the Exchange Act, to claim the Rule 12g3–2(b) exemption, where the information, enforcement remedies, and other effects of registration are valuable to investors. We estimate that, on an annual basis, approximately 150 additional foreign private issuers could claim the Rule 12g3–2(b) exemption as a result of the proposed amendments to Rule 12g3–2. Some less technologically capable investors may also incur costs resulting from the search and retrieval of a foreign company's electronically published documents.

A foreign company would incur costs resulting from the amended rule's requirement to publish electronically specified non-U.S. disclosure documents in English to the extent that it is not already required to, or does not already, do so pursuant to any applicable law or rule. A foreign private issuer would also incur costs resulting from its required annual determination regarding whether it is still in compliance with the Rule 12g3–2(b) conditions.

If, because of those costs, the foreign company does not claim or maintain the Rule 12g3–2(b) exemption, U.S. investors interested in trading in the securities of that company would have to resort to trading in the company's non-U.S. primary trading market. Those U.S. investors could incur costs associated with finding and contracting with a broker-dealer who is able to trade in the foreign reporting company's primary trading market. U.S. investors could also face additional costs resulting from currency conversion and higher transaction costs trading the securities in a foreign market.

Comment Solicited

We solicit comment on the costs and benefits to U.S. and other investors, foreign private issuers, and others who may be affected by the proposed amendments to Exchange Act Rule 12g3–2 and the associated proposed rule amendments. We request your views on the costs and benefits described above as well as on any other costs and benefits that could result from adoption of the proposed rule amendments. We also request data to quantify the costs and value of the benefits identified. We are particularly interested in receiving

[132] For the additional 150 filers: 150 × 1.5 hrs. = 225 hrs., 225 hrs. + 150 hrs. = 375 hrs., 375 hrs./300 = 1.25 hrs. per Form F–6.

[133] 375 hrs. × .25 = 94 hrs., 94 hrs. − 38 hrs. = 56 hrs., 94 hrs./300 = .31 hr. per Form F–6.

[134] 375 hrs. × .75 = 281 hrs. × $400/hr. = $112,400. $112,400 − $45,000 = $67,400.

[135] Use of an ADR facility makes it easier for a U.S. investor to collect dividends in U.S. dollars. Moreover, because the clearance and settlement process for ADRs generally is the same for securities of domestic companies that are traded in U.S. markets, a U.S. holder of an ADR is able to hold securities of a foreign company that trades, clears and settles within automated U.S. systems and within U.S. time periods.

[136] An issuer must also currently recalculate the number of its U.S. security holders when applying for reinstatement of the Rule 12g3–2(b) exemption should it lose that exemption due to non-compliance with the Rule's ongoing home jurisdiction disclosure requirements.

information concerning an issuer's expected costs of determining its relative U.S. trading volume under the proposed rule compared to its costs of having to determine the number of its U.S. holders and the percentage of shares held by them as required under the current rule.

V. Consideration of Impact On the Economy, Burden On Competition and Promotion of Efficiency, Competition and Capital Formation Analysis

A. Small Business Regulatory Enforcement Fairness Act of 1996 Considerations

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''),[137] we solicit data to determine whether the rule proposals constitute a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed rule amendments on these factors. Commenters are requested to provide empirical data and other factual support for their views if possible.

B. Securities Act Section 2(b) and Exchange Act Section 3(f) and Section 23(a)(2) Considerations

When engaging in rulemaking that requires the Commission to consider or determine whether an action is necessary or appropriate in the public interest, Securities Act Section 2(b)[138] and Exchange Act Section 3(f)[139] require the Commission to consider whether the action will promote efficiency, competition and capital formation. Further, when adopting rules under the Exchange Act, Section 23(a)(2) of the Exchange Act[140] requires us to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The rule proposals would amend the rules that determine when a foreign private issuer may claim the exemption from Exchange Act Section 12(g) registration under Exchange Act Rule 12g3–2(b). That exemption permits limited trading of an issuer's exempted equity securities in the over-the-counter market in the United States as long as the issuer submits its non-U.S. disclosure documents to the Commission, notwithstanding that the issuer exceeds the Section 12(g) registration thresholds. Many foreign private issuers rely on the Rule 12g3–2(b) exemption to have established ADR facilities, which make it easier for U.S. investors to trade in those issuers' equity securities. The Rule 12g3–2(b) exemption also makes it easier for broker-dealers to meet their Exchange Act Rule 15c2–11 obligations to investors, and effect the resale of a foreign private issuer's securities to QIBs under Securities Act Rule 144A.

The proposed rule amendments would permit a foreign private issuer to claim the Rule 12g3–2(b) exemption without having to submit a paper application to the Commission, as is currently required, if, among other conditions, the U.S. average daily trading volume of its equity securities was no greater than 20 percent of its worldwide average daily trading volume for its most recently completed fiscal year. The proposed rule amendments would also require an issuer to publish in English specified non-U.S. disclosure documents on its Internet Web site or through an electronic information delivery system that is generally available to the public in its primary trading market. Currently an issuer that has obtained the Rule 12g3–2(b) exemption by application may submit its non-U.S. disclosure documents in paper to the Commission.

By enabling a qualified foreign private issuer to claim the Rule 12g3–2(b) exemption automatically, and without regard to the number of its U.S. shareholders, as is currently the case, the proposed rule amendments should encourage more foreign private issuers to claim the Rule 12g3–2(b) exemption by lowering the costs of obtaining that exemption. Consequently, the proposed rule amendments should foster the trading of foreign companies' equity securities in the U.S. over-the-counter market, for example, by enabling the establishment of additional ADR facilities and making it easier for broker-dealers to meet their Rule 15c2–11 obligations to investors with respect to foreign securities. The enhanced ability of investors to trade foreign securities in the United States should help encourage competition between domestic and foreign firms for investors in the U.S. over-the-counter market.

Moreover, by requiring the electronic publication in English of specified non-U.S. disclosure documents for any issuer claiming the Rule 12g3–2(b) exemption, the proposed amendments should make it easier for U.S. investors to gain access to a foreign private issuer's material non-U.S. disclosure documents and make better informed decisions regarding whether to invest in that issuer's equity securities. Thus, the proposed amendments should foster increased efficiency in the trading of the issuer's securities.

We solicit comment on whether the proposed rules would impose a burden on competition or whether they would promote efficiency, competition and capital formation. Commenters are requested to provide empirical data and other factual support for their views if possible.

VI. Regulatory Flexibility Act Certification

The Securities and Exchange Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments to Exchange Act Rules 12g3–2 and 15c2–11, Exchange Act Forms 40–F, 6–K, 15, and 15F, and Securities Act Form F–6, if adopted, would not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The reason for this certification is as follows.

The proposed rule amendments would permit a foreign private issuer to claim the exemption from registration under Exchange Act Rule 12g3–2(b) if, among other conditions, the U.S. average daily trading volume of its equity securities was no greater than 20 percent of its worldwide average daily trading volume for its most recently completed fiscal year. The proposed rule amendments would also require an issuer to publish electronically its non-U.S. disclosure documents rather than submit them in paper to the Commission, as under the current rule.

Because the proposed amendments would only apply to foreign private issuers, they would directly affect only foreign companies and not domestic companies. Based on an analysis of the language and legislative history of the Regulatory Flexibility Act, Congress did not intend that the Act apply to foreign issuers. Accordingly, the entities directly affected by the proposed rule and form amendments will fall outside the scope of the Act. For this reason, proposed amended Exchange Act Rule 12g3–2 and the other proposed rule and

[137] Pub. L. 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

[138] 15 U.S.C. 77b(b).

[139] 15 U.S.C. 78c(f).

[140] 15 U.S.C. 78w(a)(2).

form amendments should not have a significant economic impact on a substantial number of small entities.

We encourage written comments regarding this certification. We request in particular that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VII. Statutory Basis and Text of Proposed Amendments

We propose to amend Securities Act Form F–6, Exchange Act Rules 12g3–2 and 15c2–11, and Exchange Act Forms 40–F, 6–K, 15, and 15F under the authority in Sections 6, 7, 10 and 19 of the Securities Act [141] and Sections 3(b), 12, 13, 23 and 36 of the Exchange Act.[142]

Text of Proposed Rule Amendments

List of Subjects in 17 CFR Parts 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, we propose to amend Title 17, Chapter II of the Code of Federal Regulations as follows.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l,* 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll,* 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Amend Form F–6 (referenced in § 239.36) by revising Item 2 of Part I to read as follows:

Note: The text of Form F–6 does not and this amendment will not appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Washington, DC 20549

FORM F–6

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 FOR DEPOSITARY SHARES EVIDENCED BY AMERICAN DEPOSITARY RECEIPTS

* * * * *

PART I—INFORMATION REQUIRED IN PROSPECTUS

* * * * *

Item 2. Available Information

Provide the information in either (a) or (b) below, whichever is applicable.

(a) State that the foreign issuer publishes information in English required to maintain the exemption from registration under Rule 12g3–2(b) of the Securities Exchange of 1934 on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market. Then disclose the address of the foreign issuer's Internet Web site or the electronic information delivery system in its primary trading market.

(b) State that the foreign issuer is subject to the periodic reporting requirements of the Securities Exchange Act of 1934 and accordingly files reports with the Commission. Then disclose that these reports are available for inspection and copying through the Commission's EDGAR system or at public reference facilities maintained by the Commission in Washington, DC.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201, *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

4. Amend § 240.12g3–2 by revising paragraphs (b), (c), (d), and (e), and removing paragraph (f), to read as follows:

§ 240.12g3–2 Exemptions for American depositary receipts and certain foreign securities.

* * * * *

(b) A foreign private issuer shall be exempt from the requirement to register a class of equity securities under section 12(g) of the Act (15 U.S.C. 78*l*(g)) if:

(1) The issuer is not required to file or furnish reports under section 13(a) of the Act (15 U.S.C. 78m(a)) or section 15(d) of the Act (15 U.S.C. 78o(d));

(2) The issuer currently maintains a listing of the subject class of securities on one or more exchanges in a foreign jurisdiction that, either singly or together with the trading of the same class of the issuer's securities in another foreign jurisdiction, constitutes the primary trading market for those securities;

(3)(i) The average daily trading volume of the subject class of securities in the United States for the issuer's most recently completed fiscal year has been no greater than 20 percent of the average daily trading volume of that class of securities on a worldwide basis for the same period; or

(ii) The issuer has terminated its registration of a class of securities under section 12(g) of the Act, or terminated its obligation to file or furnish reports under section 15(d) of the Act, pursuant to § 240.12h–6; and

(4)(i) The issuer has published in English, on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market, information that, since the first day of its most recently completed fiscal year, it:

(A) Has made public or been required to make public pursuant to the laws of the country of its incorporation, organization or domicile;

(B) Has filed or been required to file with the principal stock exchange in its primary trading market on which its securities are traded and which has been made public by that exchange; and

(C) Has distributed or been required to distribute to its security holders.

(ii) The information required to be published electronically under paragraph (b)(4)(i) of this section is information that is material to an investment decision regarding the subject securities, such as information concerning:

(A) Results of operations or financial condition;

(B) Changes in business;

(C) Acquisitions or dispositions of assets;

(D) The issuance, redemption or acquisition of securities;

(E) Changes in management or control;

(F) The granting of options or the payment of other remuneration to directors or officers; and

(G) Transactions with directors, officers or principal security holders.

(iii) At a minimum, a foreign private issuer shall electronically publish English translations of the following documents required to be published under paragraph (b)(4)(i) of this section if in a foreign language:

(A) Its annual report, including or accompanied by annual financial statements;

(B) Interim reports that include financial statements;

(C) Press releases; and

(D) All other communications and documents distributed directly to security holders of each class of securities to which the exemption relates.

Note 1 to Paragraph (b): For the purpose of paragraph (b)(2) of this section, *primary trading market* means that at least 55 percent of the trading in the subject class of securities took place in, on or through the facilities of a

[141] 15 U.S.C. 77f, 77g, 77h, 77j, and 77s.

[142] 15 U.S.C. 78c, 78*l*, 78m, 78w, and 78mm.

securities market or markets in a single foreign jurisdiction or in no more than two foreign jurisdictions during the issuer's most recently completed fiscal year. If a foreign private issuer aggregates the trading of its subject class of securities in two foreign jurisdictions for the purpose of this paragraph, the trading for the issuer's securities in at least one of the two foreign jurisdictions must be larger than the trading in the United States for the same class of the issuer's securities.

Note 2 to Paragraph (b): For the purpose of paragraph (b)(3) of this section, calculate United States trading volume and worldwide trading volume as under § 240.12h–6.

Note 3 to Paragraph (b): Paragraph (b)(4)(i) of this section does not apply to an issuer when claiming the exemption under paragraph (b) in connection with or following the recent effectiveness of the termination of its registration of a class of securities under section 12(g) of the Act, or the termination of its obligation to file or furnish reports under section 15(d) of the Act.

(c)(1) In order to maintain the exemption under paragraph (b) of this section, a foreign private issuer shall publish, on an ongoing basis and for each subsequent fiscal year, in English, on its Internet Web site or through an electronic information delivery system generally available to the public in its primary trading market, the information specified in paragraph (b)(4) of this section.

(2) An issuer must electronically publish the information required by paragraph (c)(1) of this section promptly after the information has been made public.

(d) The exemption under paragraph (b) of this section shall remain in effect until:

(1) The issuer no longer satisfies the electronic publication condition of paragraph (c) of this section;

(2) The issuer no longer maintains a listing for the subject class of securities on one or more exchanges in its primary trading market;

(3) The average daily trading volume of the subject class of securities in the United States exceeds 20 percent of the average daily trading volume of that class of securities on a worldwide basis for the issuer's most recently completed fiscal year, other than the year in which the issuer first claimed the exemption under paragraph (b) of this section; or

(4) The issuer registers a class of securities under section 12 of the Act or incurs reporting obligations under section 15(d) of the Act.

(e) Depositary shares registered on Form F–6 (§ 239.36 of this chapter), but not the underlying deposited securities, are exempt from section 12(g) of the Act under this paragraph.

5. Amend § 240.15c2–11 by revising paragraph (a)(4) to read as follows:

§ 240.15c2–11 Initiation or resumption of quotations without specific information.

* * * * *

(a) * * *

(4) The information that, since the beginning of its last fiscal year, the issuer has published pursuant to § 240.12g3–2(b) to maintain the exemption from registration under section 12(g) of the Act, and which the broker or dealer shall make reasonably available upon the request of a person expressing an interest in a proposed transaction in the issuer's security with such broker or dealer; or

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

6. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, and 7202, 7233, 7241, 7262, 7264, and 7265; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

7. Amend Form 40–F (referenced in § 249.240f), the cover page, by removing the second to last paragraph, which pertains to information furnished pursuant to Rule 12g3–2(b), including the check boxes.

Note: The text of Form 40–F does not and this amendment will not appear in the Code of Federal Regulations.

8. Amend Form 6–K (referenced in § 249.306), the cover page, by removing the two paragraphs, which pertain to information furnished pursuant to Rule 12g3–2(b), following the second Note, including the check boxes.

Note: The text of Form 6–K does not and this amendment will not appear in the Code of Federal Regulations.

9. Amend Form 15 (referenced in § 249.323) by revising the check boxes on the cover page to read as follows:

Note: The text of Form 15 does not and this amendment will not appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Washington, DC 20549

FORM 15

CERTIFICATION AND NOTICE OF TERMINATION OF REGISTRATION UNDER SECTION 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934 OR SUSPENSION OF DUTY TO FILE REPORTS UNDER SECTIONS 13 AND 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

* * * * *

Rule 12g–4(a)(1) ☐
Rule 12g–4(a)(2) ☐
Rule 12h–3(b)(1)(i) ☐
Rule 12h–3(b)(1)(ii) ☐
Rule 15d–6 ☐

* * * * *

10. Amend Form 15F (referenced in § 249.324) by revising General Instruction E and Item 9 of Part II to read as follows:

Note: The text of Form 15F does not and this amendment will not appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Washington, DC 20549

FORM 15F

CERTIFICATION OF A FOREIGN PRIVATE ISSUER'S TERMINATION OF REGISTRATION OF A CLASS OF SECURITIES UNDER SECTION 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934 OR ITS TERMINATION OF THE DUTY TO FILE REPORTS UNDER SECTION 13(a) OR SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

* * * * *

GENERAL INSTRUCTIONS

* * * * *

E. Rule 12g3–2(b) Exemption

Regardless of the particular Rule 12h–6 provision under which it is proceeding, a foreign private issuer that has filed a Form 15F regarding a class of equity securities shall receive the exemption under Rule 12g3–2(b) (17 CFR 240.12g3–2(b)) for the subject class of equity securities immediately upon the effective date of its termination of registration and reporting under Rule 12h–6. Refer to Rule 12g3–2(c) and (d) (17 CFR 240.12g3–2(c) and (d)) for the conditions that a foreign private issuer must meet in order to maintain the Rule 12g3–2(b) exemption following its termination of Exchange Act registration and reporting.

* * * * *

PART II

Item 9. Rule 12g3–2(b) Exemption

Disclose the address of your Internet Web site or of the electronic information delivery system in your primary trading market on which you have published and will publish the information required under Rule 12g3–2(b)(4) (17 CFR 240.12g3–2(b)(4)) and Rule 12g3–2(c) to maintain the exemption under Rule 12g3–2(b).

Instruction to Item 9.

Refer to Rule 12g3–2(b)(4)(iii) (17 CFR 240.12g3–2(b)(4)(iii)) for instructions regarding providing English translations of documents required to maintain the Rule 12g3–2(b) exemption.

* * * * *

Dated: February 19, 2008.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E8–3424 Filed 2–22–08; 8:45 am]

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published 12-5-07 [FR 07-05101]

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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.

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Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Feb. 14, 2008; 122 Stat. 623)

H.R. 3541/P.L. 110–187

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S. 781/P.L. 110–188

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1	(869–062–00001–4)	5.00	[4] Jan. 1, 2007
2	(869–062–00002–2)	5.00	Jan. 1, 2007
3 (2006 Compilation and Parts 100 and 102)	(869–062–00003–1)	35.00	[1] Jan. 1, 2007
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140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.

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