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Federal Register

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN 3206–AL49

Absence and Leave; Annual Leave for Senior-Level Employees

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management is issuing final regulations to implement a provision of the National Defense Authorization Act for Fiscal Year 2008 which provides a higher limit on the accumulation of annual leave for certain senior-level employees.

DATES: These regulations are effective April 8, 2008.

FOR FURTHER INFORMATION CONTACT: Doris Rippey by telephone at (202) 606–2858; by fax at (202) 606–0824; or by e-mail at *pay-performance-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing final regulations to implement a provision of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181, January 28, 2008) which provides a higher limit on the accumulation of annual leave for certain senior-level employees covered by 5 U.S.C. 5376 and 10 U.S.C. 1607(a).

Section 1112 of the Act amends 5 U.S.C. 6304(f)(1) to provide that the annual leave carryover ceiling for employees in senior-level (SL) and scientific and professional (ST) positions compensated under 5 U.S.C. 5376, and for employees serving in positions designated under 10 U.S.C. 1607(a) as Intelligence Senior Level positions, is 90 days (720 hours)—the same 90-day annual leave ceiling that applies to members of the Senior Executive Service.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(B) of title 5 of the United States Code, OPM finds good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), OPM finds good cause exists for making this rule effective in less than 30 days. These regulations implement section 1112 of Public Law 10X–181, which became effective on the date of enactment, January 28, 2008. The statutory change is unambiguous and does not require interpretation, because it only extends coverage under a particular provision of law to additional categories of employees. These regulations merely incorporate the statutory change. Thus, a notice of proposed rulemaking and a delayed effective date are unnecessary. This waiver will facilitate timely implementation of the law as intended by Congress.

E.O. 12866, Regulatory Review

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM is amending 5 CFR part 630 as follows:

PART 630—ABSENCE AND LEAVE

■ 1. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.205 also issued under Pub. L. 108–411, 118 Stat. 2312; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410 and Pub. L. 108–411, 118 Stat. 2312; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 105–18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102–25, 105 Stat. 92.

Subpart C—Annual Leave

■ 2. In § 630.301, the section heading and paragraphs (e), (f), and (g) are revised to read as follows:

§ 630.301 Annual leave accrual and accumulation—Senior Executive Service, Senior-Level, and Scientific and Professional Employees.

* * * * *

(e) Unused annual leave accrued by an employee while serving in a position subject to one of the pay systems under 5 U.S.C. 5383 (Senior Executive Service) or 5 U.S.C. 5376 (Senior-Level and Scientific or Professional) or 10 U.S.C. 1607(a) (Intelligence Senior Level), shall accumulate for use in succeeding years until it totals not more than 90 days (720 hours) at the beginning of the first full biweekly pay period (or corresponding period for an employee who is not paid on the basis of biweekly pay periods) occurring in a calendar year.

(f) When an employee in a position outside of those listed in paragraph (e) of this section moves to a position covered by paragraph (e) of this section, any annual leave accumulated prior to movement shall remain to the employee's credit.

(1) Annual leave accumulated prior to movement to a position covered by paragraph (e) of this section that is in excess of the amount allowed for the former position by 5 U.S.C. 6304(a), (b), or (c) and that is not used by the beginning of the first full biweekly pay period in the next leave year shall be subject to forfeiture.

(2) If an employee serves less than a full pay period in a position listed in paragraph (e) of this section, only that portion of accrued annual leave that is attributable to service in such a position shall be subject to the 90-day (720-hour) limitation on accumulation of annual leave. Annual leave accrued during the

remainder of the pay period shall be subject to the limitations in 5 U.S.C. 6304(a), (b), and (c), as appropriate.

(g) When an employee covered by paragraph (e) of this section moves to a position not covered by paragraph (e) of this section, any annual leave accumulated while serving in the former position that is in excess of the amount allowed for the position by 5 U.S.C. 6304(a), (b), or (c) shall remain to the employee's credit and shall be subject to reduction under procedures identical to those described in 5 U.S.C. 6304(c).

* * * * *

[FR Doc. E8–7303 Filed 4–7–08; 8:45 am]

BILLING CODE 6325–39–P

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 7401

RIN 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Merit Systems Protection Board

AGENCY: Merit Systems Protection Board (MSPB).

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board, with the concurrence of the Office of Government Ethics (OGE), is adopting as final, without change, the interim MSPB rule that supplements the executive-branch-wide Standards of Ethical Conduct (Standards) issued by OGE and, with certain exceptions, requires MSPB employees to obtain approval before engaging in outside employment.

DATES: This final rule is effective April 8, 2008.

FOR FURTHER INFORMATION CONTACT: B. Chad Bungard, General Counsel, Merit Systems Protection Board, fax: (202) 653–6203; e-mail: *mspb@mspb.gov*.

SUPPLEMENTARY INFORMATION: The MSPB published, with OGE concurrence, an interim rule at 72 FR 26533, on May 10, 2007, governing the conduct of MSPB employees and requested comments. No comments were received. The MSPB has determined, with OGE concurrence, to adopt the interim rule as final without change. The interim rule being adopted as final provides that an MSPB employee, other than a special Government employee, must obtain approval before engaging in outside employment. The rule defines outside employment and sets out the procedures for seeking approval. The rule also provides that the Designated Agency Ethics Official (DAEO) or alternate DAEO may exempt certain categories of employment from the prior approval requirement.

For a detailed section analysis of this final rule, see the preamble of the interim rule as published at 72 FR 26533.

Regulatory Flexibility Act

The MSPB has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. chapter 6, that this rulemaking will not have a significant economic impact on a substantial number of small entities because it primarily affects MSPB employees.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply because this rulemaking does not contain information collection requirements subject to the approval of the Office of Management and Budget.

Congressional Review Act

The Merit Systems Protection Board has determined that this rule is not a rule as defined in 5 U.S.C. 804, and thus, does not require review by Congress.

List of Subjects in 5 CFR Part 7401

Conflict of interests, Government employees.

Authority and Issuance

■ Accordingly, the Merit Systems Protection Board, with the concurrence of the Office of Government Ethics, is adopting the interim rule adding 5 CFR chapter LXIV, consisting of part 7401, which was published at 72 FR 26533 on May 10, 2007, as a final rule without change.

Dated: March 19, 2008.

Neil A.G. McPhie,

Chairman, Merit Systems Protection Board.

Approved: March 31,2008.

Robert I. Cusick,

Director, Office of Government Ethics.

[FR Doc. E8–7324 Filed 4–7–08; 8:45 am]

BILLING CODE 7400–01–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 214 and 274a

[DHS No. ICEB–2008–0002; ICE No. 2124–08]

RIN 1653–AA56

Extending Period of Optional Practical Training by 17 Months for F–1 Nonimmigrant Students With STEM Degrees and Expanding Cap-Gap Relief for All F–1 Students With Pending H–1B Petitions

AGENCY: U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services; DHS.

ACTION: Interim final rule with request for comments.

SUMMARY: Currently, foreign students in F–1 nonimmigrant status who have been enrolled on a full-time basis for at least one full academic year in a college, university, conservatory, or seminary certified by U.S. Immigration and Custom Enforcement's (ICE's) Student and Exchange Visitor Program (SEVP) are eligible for 12 months of optional practical training (OPT) to work for a U.S. employer in a job directly related to the student's major area of study. This interim final rule extends the maximum period of OPT from 12 months to 29 months for F–1 students who have completed a science, technology, engineering, or mathematics (STEM) degree and accept employment with employers enrolled in U.S. Citizenship and Immigration Services' (USCIS') E-Verify employment verification program. This interim rule requires F–1 students with an approved OPT extension to report changes in the student's name or address and changes in the employer's name or address as well as periodically verify the accuracy of this reporting information. The rule also requires the employers of F–1 students with an extension of post-completion OPT authorization to report to the student's designated school official (DSO) within 48 hours after the OPT student has been terminated from, or otherwise leaves, his or her employment with that employer prior to end of the authorized period of OPT.

This rule also ameliorates the so-called ''cap-gap'' problem by extending the authorized period of stay for all F–1 students who have a properly filed H–1B petition and change of status request (filed under the cap for the next fiscal year) pending with USCIS. If USCIS approves the H–1B petition, the students will have an extension that enables them to remain in the United

States until the requested start date indicated in the H–1B petition takes effect. This interim final rule also implements a programmatic change to allow students to apply for OPT within 60 days of concluding their studies.

DATES: This interim final rule is effective April 8, 2008. Written comments must be submitted on or before June 9, 2008.

ADDRESSES: You may submit comments, which must be identified by Department of Homeland Security docket number ICEB–2008–0002, using one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of Policy, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 425 I Street, NW., Room 7257, Washington, DC 20536.
- *Hand Delivery/Courier:* The address for sending comments by hand delivery or courier is the same as that for submitting comments by mail. Contact telephone number is (202) 514–8693.
- *Facsimile:* Comments may be submitted by facsimile at (866) 466–5370.

Viewing Comments: Comments may be viewed online at *http://www.regulations.gov* or in person at U.S. Immigration and Customs Enforcement, Department of Homeland Security, Chester Arthur Building, 425 I Street, NW., Room 7257, Washington, DC 20536. You must call telephone number (202) 514–8693 in advance to arrange an appointment.

Public Participation

This is an interim final rule with a request for public comment. The most helpful comments reference the specific section of the rule using section number, explain the reason for any recommended change, and include data, information, and the authority that supports the recommended change.

Instructions: All submissions must include the agency name and Department of Homeland Security docket number ICEB–2008–0002. All comments (including any personal information provided) will be posted without change to *http://www.regulations.gov.* See **ADDRESSES** above for methods to submit comments. Mailed submissions may be paper, disk, or CD–ROM.

FOR FURTHER INFORMATION CONTACT: Louis Farrell, Director, Student and Exchange Visitor Program; U.S. Immigration and Customs Enforcement, Department of Homeland Security; Chester Arthur Building, 425 I Street, NW., Suite 6034, Washington, DC 20536; telephone number (202) 305–2346. This is not a toll-free number. Program information can be found at *http://www.ice.gov/sevis/.*

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TABLE OF ABBREVIATIONS

Abbreviation	Amplification
APA	Administrative Procedure Act
ASC	Application Support Center
CEU	Compliance Enforcement Unit
CBP	U.S. Customs and Border Protection
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
DSO	Designated School Official
EAD	Form I–766, Employment Authorization Document
ICE	U.S. Immigration and Customs Enforcement
IIRIRA	Illegal Immigration Reform and Immigrant Responsibility Act of 1996
INA	Immigration and Nationality Act of 1952, as amended
INS	Immigration and Naturalization Service
OMB	Office of Management and Budget
OPT	Optional Practical Training
RFA	Regulatory Flexibility Act
SEVIS	Student and Exchange Visitor Information System
SEVP	Student and Exchange Visitor Program
STEM	Science, Technology, Engineering, or Math
U.S.	United States

TABLE OF ABBREVIATIONS—Continued

Abbreviation	Amplification
USA PATRIOT Act.	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act
USCIS	U.S. Citizenship and Immigration Services

I. Background and Purpose

A. Optional Practical Training and Need To Extend by 17 Months for F–1 Students With STEM Degrees

Section 101(a)(15)(F)(i) of the Immigration and Nationality Act of 1952, as amended (INA), 8 U.S.C. 1101(a)(15)(F)(i), establishes the F–1 nonimmigrant classification for individuals who wish to come to the United States temporarily to attend an academic or language training institution certified by the Student and Visitor Exchange Program (SEVP) for U.S. Immigration and Customs Enforcement (ICE). F–1 students may remain in the United States for the duration of their educational programs if they otherwise maintain status. 8 CFR 214.2(f)(5). Once an F–1 student has completed his or her course of study, and any authorized practical training following completion of studies, the student must either transfer to another SEVP-certified school to continue studies, change to a different nonimmigrant status, otherwise legally extend their period of authorized stay in the United States, or leave the United States. 8 CFR 214.2(f)(5)(iv). F–1 students are allowed 60 days after the completion of such studies and practical training to prepare for departure from the United States. 8 CFR 214.2(f)(5)(iv).

F–1 students generally are not authorized to work in the United States during the term of their educational program, with limited exceptions. Currently, students in F–1 nonimmigrant status who have been enrolled on a full-time basis for at least one full academic year in a college, university, conservatory, or seminary certified by SEVP, and have otherwise maintained status, are eligible to apply for up to 12 months of optional practical training (OPT) to work for a U.S. employer in a job directly related to the student's major area of study. 8 CFR 214.2(f)(10). F–1 students may obtain OPT either during their educational program (''pre-completion OPT'') or after the student graduates (''post-completion OPT''). The student remains in F–1 status throughout the OPT period.

An F–1 student in post-completion OPT, therefore, does not have to leave the United States within 60 days after graduation, but is authorized to remain in the United States for the entire post-completion OPT period. If the student has not used any pre-completion OPT, then the student's post-completion OPT period could be up to 12 months. Once the post-completion OPT period has concluded, the student must depart the United States within 60 days, unless he or she changes status or otherwise legally extends his or her stay in the United States (*e.g.*, starts a graduate program).

During his or her authorized period of stay, a qualified F–1 student may receive a change of nonimmigrant status to H–1B nonimmigrant status if an employer has timely filed, and USCIS grants, a petition on behalf of that student. The employer must submit a Form I–129, Petition for a Nonimmigrant Worker to USCIS. The Form includes a section for the employer to indicate whether change of status is being requested for the beneficiary (if eligible), or whether the beneficiary will instead apply for a visa outside of the United States at a U.S. consulate. USCIS may grant H–1B status to eligible nonimmigrants employed in or offered a job by the petitioner in a specialty occupation. 8 CFR 214.2(h)(1)(ii)(B). A specialty occupation is one that requires the theoretical and practical application of a body of specialized knowledge and a bachelor's or higher degree in the specific specialty as a minimum qualification. INA Section 214(i).

Congress, however, has prohibited USCIS from granting H–1B status to more than 65,000 nonimmigrant aliens during any fiscal year (referred to as the ''cap'').[1] *See* INA Section 214(g). The H–1B category is greatly oversubscribed. When USCIS determines that the cap will be reached for that fiscal year, based on the number of H–1B petitions received, it announces to the public the final day on which USCIS will accept such petitions for adjudication in that fiscal year. USCIS refers to this day as the ''final receipt date.'' *See* 8 CFR 214.2(h)(8)(ii)(B). USCIS then randomly selects from among the petitions received on the final receipt date the number of petitions necessary to reach the 65,000 cap. *Id.* If the final receipt date falls within the first five business days on which petitions subject to the applicable cap may be filed, USCIS will randomly select the number of petitions necessary to reach the 65,000 cap from among those filed during the acceptance period.

There is a significant amount of competition among employers of highly-skilled workers for the limited number of H–1B visas available each fiscal year. Each year, the cap has been reached earlier in the year. For FY05, the cap was reached on October 1, 2004, the first day of that fiscal year. In FY06, the cap was reached on August 10, 2005; and in FY 07, the cap was reached on May 26, 2006. Last year, the cap was reached on April 2, 2007, the first business day for filing. On that single day, USCIS received more than twice the number of petitions needed to reach the cap for that fiscal year.[2]

Many employers who hire F–1 students under the OPT program eventually file a petition on the students' behalf for classification as an H–1B worker in a specialty occupation. If the student is maintaining his or her F–1 nonimmigrant status, the employer may also include a request to have the student's nonimmigrant status changed to H–1B. Because the H–1B category is greatly oversubscribed, however, OPT employees often are unable to obtain H–1B status within their authorized period of stay in F–1 status, including the 12-month OPT period, and thus are forced to leave the country. The inability of U.S. employers, in particular in the fields of science, technology, engineering and mathematics, to obtain H–1B status for highly skilled foreign students and foreign nonimmigrant workers has adversely affected the ability of U.S. employers to recruit and retain skilled workers and creates a competitive disadvantage for U.S. companies.

The National Science Foundation (NSF), in its *Science and Engineering Indicators 2008* (SEIND08),[3] took note of these trends. NSF observed that globalization of science and technology has proceeded at a quick pace since the early 1990s. Increased international travel coincided with the development of the Internet as a tool for unfettered worldwide information dissemination and communication. ''By the late 1990s,'' the report continues ''many governments had taken note of these developments. They increasingly looked to the development of knowledge-intensive economics for their countries' economic competitiveness and growth.'' SEIND08 at 0–4. NSF further reports that ''twenty-five percent of all college-education science and engineering occupations in 2003 were foreign born, as were [forty percent] of doctorate holders in science and engineering.'' According to the Task Force on the Future of American Innovation, *Measuring the Moment: Innovation, National Security and Economic Competitiveness* (November 2006),[4] the proportion of American students in the United States obtaining degrees in STEM fields has fallen from 32% to 27%. Later, the report reveals that since 2000, there have been more foreign graduate students studying engineering and the physical, computer and mathematical sciences in U.S. graduate schools than U.S. citizens and permanent residents.

The NSF goes on to say that ''U.S. [Gross Domestic Product] growth is robust but cannot match large, sustained increases in China and other Asian economies.'' And because of this globalization, the United States, while still the leading producer of scientific knowledge, faces a labor market in which it must increasingly compete with these countries. The economies of the Organization of Economic Cooperation and Development (OECD) countries, particularly Australia, Canada, and certain European countries, are also providing increased opportunities for STEM scientists. And STEM graduates from the growing economies of China, India, and Russia, for example, have increased employment opportunities in their native countries. Thus, the Task Force on the Future of American Innovation reports ''the impact of China and India on global R&D [research and development] is significant and growing rapidly: In 1990, these two countries accounted for 3.4% of foreign R&D staff, which increased to 13.9% by 2004. By the end of 2007, China and India will account for 31% of global R&D staff, up from 19% in 2004.'' *See Measuring the Moment: Innovation, National Security and Economic Competitiveness* (November 2006). In short, with their large and growing populations of STEM-graduate scientists, high-tech industries in these three countries and others in the OECD now compete much more effectively against the U.S. high technology industry.

[1] The 65,000 person cap does not, however, apply to certain limited classes of aliens, including individuals who are employed by, or have received offers of employment at: (1) An institution of higher education, or a related or affiliated nonprofit entity, or (2) a nonprofit research organization or a governmental research organization. Additionally, there is an exemption from the H–1B cap for up to 20,000 individuals who are advanced degree graduates (master's degree or higher) from U.S. institutions of higher education.

[2] *See* USCIS Update at *http://www.uscis.gov/files/pressrelease/H1BFY08Cap040307.pdf.*

[3] This publication may be found at *http://www.nsf.gov/statistics/seind08.*

[4] This report may be accessed at *http://www.futureofinnovation.org/PDF/BII-FINAL-HighRes-11-14-06_nocover.pdf.*

DHS has received communications from a wide range of concerned stakeholders, including companies in the high-tech industry, members of Congress, and U.S. educational institutions, about the adverse impact on the U.S. economy and the ability of U.S. schools to attract talented foreign students for STEM study programs due to the immigration and employment practices in the United States. Representatives of high-tech industries in particular have raised significant concerns that the inability of U.S. companies to obtain H–1B visas for qualified F–1 students in a timely manner continues to result in the loss of skilled technical workers to countries with more lenient employment visa regimes, such as Canada and Australia. *See* Testimony of Bill Gates, Chairman, Microsoft Corporation, before the U.S. Senate Committee on Health, Education, Labor & Pensions, ''Strengthening American Competitiveness for the 21st Century'' (Washington, D.C.; March 7, 2007).[5]

Notably, the European Union recently proposed a ''Blue Card'' program, similar to the U.S. H–1B visa program, under which skilled workers would be able to obtain a temporary work visa for employment in the European Union. Unlike the H–1B program, the European Union's Blue Card program proposal would not have a cap. The European Union estimates that workers would usually be able to obtain their visas in 90 days or less. If the Blue Card proposal is adopted, U.S. employers could be at a competitive disadvantage to employers in the European Union when recruiting foreign national candidates. U.S. high-tech employers are particularly concerned about the H–1B cap because of the critical shortage of domestic science and engineering talent and the degree to which high-tech employers are as a consequence necessarily far more dependent on foreign workers than other industries. *See* The National Science Foundation, *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future* (2007), pp. 78–83 (describing the critical shortages of science, math, and engineering talent in the United States).[6]

Many F–1 students who graduated last spring will soon be concluding their 12-month periods of OPT. Unless employers for those students are able to obtain H–1B visas when the filing period commences on April 1, 2008 for FY09 (October 1, 2008), many of these students will need to leave the United States when their current post-completion OPT period concludes.

This interim final rule addresses the immediate competitive disadvantage faced by U.S. high-tech industries, and thus may quickly ameliorate some of the adverse impacts on the U.S. economy. It does this by allowing an F–1 student already in a period of approved post-completion OPT to apply to extend that period by up to 17 months (for a maximum total period of 29 months of OPT) if the student received a STEM degree. As discussed in Section II below, this extension is only available to F–1 students with STEM degrees who have accepted employment with an employer registered and in good standing with USCIS' E-Verify employment verification program. In addition, employers of F–1 students who qualify for this 17-month extension of post-completion OPT must report to the student's school DSO within 48 hours if the student's employment ends prior to the end of the student's authorized OPT employment period.

B. ''Cap-Gap'' and Need To Expand Relief to All F–1 Students With Pending H–1B Petitions

As discussed above, nonimmigrant F–1 students on post-completion OPT maintain valid F–1 status until the expiration of the OPT period and the subsequent 60-day departure preparation period. Employers of students already working for the employer under OPT often file petitions to change the students' status to H–1B so that these nonimmigrant aliens may continue working in their current or a similar job. Many times, however, an F–1 student's OPT authorization will expire prior to the student being able to assume the employment specified in the approved H–1B petition.

Currently, an employer may not file, and USCIS may not approve, an H–1B petition submitted earlier than six months before the date of actual need for the beneficiary's services or training. 8 CFR 214.2(h)(9)(i)(B). As a result, the earliest date that an employer can file an H–1B petition for consideration under the next fiscal year cap is April 1, for an October 1 employment start date. If that H–1B petition and the accompanying change of status request are approved, the earliest date that the student may start H–1B employment is October 1. Consequently, F–1 students who are the beneficiaries of approved H–1B petitions, but whose period of authorized stay (including authorized periods of post-completion OPT and the subsequent 60-day departure preparation period) expires before the October 1 H–1B employment start date, would have a gap in authorized stay and employment. This situation is commonly referred to as the ''cap-gap.''

An F–1 student in a cap-gap situation would have to leave the United States and return at the time his or her H–1B status becomes effective at the beginning of the next fiscal year. This gap creates a hardship to a number of students and provides a disincentive to remaining in the United States for employment. The cap-gap therefore creates a recruiting obstacle for U.S. employers interested in obtaining F–1 students for employment and submitting H–1B petitions on their behalf. Moreover, when the student is already working for a U.S. company on OPT and has to leave the United States, frequently for several months, during the cap-gap period, the employer suffers a major disruption.

USCIS is already authorized to extend the status of F–1 students caught in a cap-gap between graduation and the start date on his or her approved H–1B petition. 8 CFR 214.2(f)(5)(vi). However, before USCIS can offer students any relief from the cap-gap, it must first determine that the cap has been reached for the current fiscal year, or is likely to be reached prior to the end of the current fiscal year, and then publish a notice in the **Federal Register** announcing that status is extended for students with pending H–1B petitions. Significantly, the existing regulations do not take into account the fact that the H–1B category is now oversubscribed to such a degree that USCIS' final receipt date for petitions is now announced even before the start of the fiscal year for which the petitions are being submitted and, in the absence of an expansion of the 65,000 cap by Congress, this state of affairs will likely continue indefinitely. The existing regulations, therefore, are not an effective means of addressing the cap-gap problem suffered by student beneficiaries of pending H–1B petitions (and their employers).

This interim rule amends USCIS procedures by eliminating the requirement that USCIS issue a **Federal Register** notice. Instead, this rule extends the authorized period of stay, as well as work authorization, of any F–1 student who is the beneficiary of a timely-filed H–1B petition that has been granted by, or remains pending with, USCIS. The extension of status and work authorization terminates on October 1 of the fiscal year for which the H–1B visa has been requested. This amendment better reflects the reality of the current situation, where demand for

[5] A copy of this testimony can be accessed at *http://help.senate.gov/hearings/2007_03_07/Gates.pdf.*

[6] This publication may be found at *http://www.nap.edu/catalog.php?record_id=11463.*

H–1B visas is so high that USCIS regularly receives enough petitions to reach the cap before the beginning of the fiscal year for which petitions are filed, and offer more substantial cap gap relief to both students and employers.

II. Discussion of This Interim Final Rule

A. 17-Month Extension of Optional Practical Training for F–1 Students Who Have Obtained a STEM Degree

This interim rule will allow F–1 students who have received a degree in a STEM field to obtain an extension of their existing post-completion OPT period for up to 17 months, for a maximum period of post-completion OPT of 29 months. The extension, however, is only available to students who are employed, or will be employed, by an employer enrolled (and determined by USCIS to be in good standing) in USCIS' E-Verify employment verification program at the time the student applies for the 17-month extension. A student seeking an extension must agree to report to a DSO at his or her school the following: Changes to the student's name, the student's residential and mailing address, the student's employer, and the address of the student's employer. The student must also report to a DSO every six months from the date the OPT extension starts to verify this information. In addition, the employer of a student under extended OPT must report to the student's school DSO within 48 hours after the student leaves employment with that employer. The DSO must report all of this information in SEVIS.

1. Requirements for Students Seeking a 17-Month OPT Extension

This interim final rule will allow qualified F–1 students who currently have approved post-completion OPT to apply for a 17-month extension of OPT. The student's degree, as shown is SEVIS, must be a bachelor's, master's, or doctorate degree with a degree code that is on the current STEM Designated Degree Program List.

The STEM Designated Degree Program List is based on the ''Classification of Instructional Programs'' (CIP) developed by the U.S. Department of Education's National Center for Education Statistics (NCES). *See Classification of Instructional Programs—2000: (NCES 2002–165)* U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.[7] To be eligible for the 17-month OPT extension, a student must have received a degree in the following:

- Actuarial Science. NCES CIP Code 52.1304
- Computer Science: NCES CIP Codes 11.xxxx (except Data Entry/ Microcomputer Applications, NCES CIP Codes 11.06xx)
- Engineering: NCES CIP Codes 14.xxxx
- Engineering Technologies: NCES CIP Codes 15.xxxx
- Biological and Biomedical Sciences: NCES CIP Codes 26.xxxx
- Mathematics and Statistics: NCES CIP Codes 27.xxxx
- Military Technologies: NCES CIP Codes 29.xxxx
- Physical Sciences: NCES CIP Codes 40.xxxx
- Science Technologies: NCES CIP Codes 41.xxxx
- Medical Scientist (MS, PhD): NCES CIP Code 51.1401

The approved list is available on SEVP's Web site at *http://www.ice.gov/sevis.* DHS welcomes comment on the list and any recommendations for additional degrees that the Department should consider for inclusion in the list. DHS will continue to work with interested parties to evaluate the degrees that may be added to this list in the future, and will be reaching out to other agencies in the development of the final rule. The Department, however, must also continue to ensure that the extension remains limited to students with degrees in major areas of study falling within a technical field where there is a shortage of qualified, highly-skilled U.S. workers and that is essential to this country's technological innovative competitiveness.

DHS will announce any future changes to the list on this Web site. Note that catch-all NCES CIP codes ending in ''99'' are not considered STEM designated degrees.

Students who wish to extend OPT must request that their DSO recommend the 17-month OPT extension. DSOs recommending the extension must verify the student's eligibility, certify that the student's degree is on the STEM Designated Degree Program List, and ensure that the student is aware of his or her responsibilities for maintaining status while on OPT. The DSO must make the recommendation to extend OPT for the student through SEVP's Student and Exchange Visitor Information System (SEVIS), a Web-enabled database for the collection of information related to F, M and J nonimmigrants, certified schools, and State Department approved exchange visitor programs. SEVP will implement an interim update to SEVIS to ensure schools can recommend extending the authorized OPT period for 17 months for qualified students. The changes will be minimal due to the short time for planning and the reduced testing cycle. SEVP is also planning a major SEVIS release in the first part of FY 2009 to more fully support the new regulatory requirements. SEVP will publish interim instructions for the period between the interim update and the major release and provide training opportunities for DSOs. SEVIS help desk personnel will provide assistance with the proper interim procedures.

Once the DSO recommends a student for the extension, the student must submit a Form I–765 and appropriate fees (as indicated in the form instructions) to USCIS. Instructions for filing the Form I–765 can be found at USCIS' Web site at *http://www.uscis.gov.*

This interim final rule also extends EADs for students with pending requests for extension of post-completion OPT. An F–1 student who has properly filed Form I–765 prior to the end date of his or her post completion OPT is allowed to maintain continuous employment for up to 180 days while USCIS adjudicates the request for the extension.

To implement the changes discussed in this rulemaking, USCIS is making conforming amendments to Form I–765 to ensure that that the F–1 students seeking a 17-month extension of their post-completion OPT are, in fact, eligible to do so. USCIS is amending this form to add, among other things, a new question #17 asking students to identify the degree they have received, so that USCIS may determine that the student has received a degree in a STEM field. The new Form I–765 also will ask the student seeking the extension to provide the name of their employer (as listed in E-Verify), and their employer's E-Verify Company I.D. number or, if the employer is using a Designated Agent to perform the E-Verify queries, a valid E-Verify Client Company I.D. number

2. Requirement for Employers of Students With a 17-Month OPT Extension

a. USCIS E-Verify Employment Verification Program

As discussed above, only students who are employed by employers who have enrolled, and are determined by USCIS to be in good standing, in USCIS'

[7] This publication may be found at *http://nces.ed.gov/pubs2002/2002165_2.pdf.*

E-Verify program will be eligible for the 17-month extension of post-completion OPT. The E-Verify program is an Internet-based system operated by USCIS, in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers and is available in all 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands. E-Verify electronically compares information contained on the Employment Eligibility Verification Form I–9 (herein Form I–9) with records contained in SSA and DHS databases to help employers verify identity and employment eligibility of newly-hired employees. This program currently is the best means available for employers to determine employment eligibility of new hires and the validity of their Social Security Numbers.

Before an employer can participate in the E-Verify program, the employer must enter into a Memorandum of Understanding (MOU) with DHS and SSA. This memorandum requires employers to agree to abide by current legal hiring procedures and to ensure that no employee will be unfairly discriminated against as a result of the E-Verify program. Violation of the terms of this agreement by the employer is grounds for immediate termination of its participation in the program.

Employers participating in E-Verify must still complete a Form I–9 for each newly hired employee, as required under current law. Following completion of the Form I–9, the employer must enter the newly hired worker's information into the E-Verify Web site, and that information is then checked against information contained in SSA and USCIS databases. E-Verify compares employee information against more than 425 million records in the SSA database and more than 60 million records stored in the DHS database. Currently, 93 percent of all employer queries are instantly verified as work authorized.

It is important to note that, once an employer enrolls in E-Verify, that employer is responsible for verifying all new hires, including newly hired OPT students with 17-month OPT extensions, at the hiring site(s) identified in the MOU executed by the employer and DHS. New hires must be verified to be authorized to work in the United States through E-Verify within three days of hire. If, however, an employer enrolls in E-Verify to retain the employment of an OPT student, the employer may not verify the employment eligibility of the OPT employee in E-Verify as the MOU prohibits the verification of existing employees. Additional information on enrollment and responsibilities under E-Verify can be found at *http://www.uscis.gov/E-Verify.*

Employers can register for E-Verify on-line at *http://www.uscis.gov/E-Verify.* The site provides instructions for completing the MOU needed to officially register for the program.

b. Employer Reporting Requirement

SEVP's ability to track nonimmigrant students in the United States relies on reporting by the students' DSOs. DSOs obtain the needed information from the school's recordkeeping systems and contact with the students. Students on OPT, however, are often away from the academic environment, making it difficult for DSOs to ensure proper and prompt reporting on student status to SEVP. While DHS regulations currently require DSOs to update SEVIS, the current reporting requirements depend entirely on the student's timely compliance. DSOs are not currently required to review and verify information reported by students on a recurring basis. This combination of factors hinders systematic reporting and SEVP's ability to track F–1 students during OPT.

Accordingly, DHS will only extend post-completion OPT for students employed by employers that agree to report when an F–1 student on extended OPT terminates or otherwise leaves his or her employment with the employer prior to end of the authorized period of OPT. The employer must report this information to the DSO of the student's school no later than 48 hours after the student leaves employment. Employers must report this information to the DSO at the student's school unless DHS announces another means to report such information through a **Federal Register** notice. The contact information for the DSO is on the student's Form I–20. DHS welcomes comments on possible means for directly reporting to DHS, such as through electronic means similar to or associated with the E-Verify platform.

B. Expansion of Cap-Gap Relief for All F–1 Students With Pending H–1B Petitions

Currently, F–1 students who are the beneficiaries of approved H–1B petitions, but whose period of admission (including authorized periods of post-completion OPT and the subsequent 60-day departure preparation period) expires before the H–1B employment start date, have a gap in authorized stay and employment between the end of their F–1 status and the beginning of their H–1B employment. This situation is commonly referred to as the ''cap-gap.''

USCIS is authorized to extend the status of F–1 students caught in a cap gap between the end of the student's F–1 status and the start date on his or her approved H–1B petition.[8] 8 CFR 214.2(f)(5)(vi). The current regulations, however, do not provide for a commensurate extension of students' employment authorization to cover the gap period. Additionally, the regulations currently provide that USCIS must determine that the H–1B cap will be met prior to the end of the ''current'' fiscal year before it may authorize an extension of stay for students subject to the cap gap for that fiscal year by means of a notice published in the **Federal Register**.

This interim rule expands the relief offered by the existing cap gap provision by first eliminating the limitation that cap gap relief be authorized only when the H–1B cap is likely to be reached prior to the end of the current fiscal year. This interim rule also removes the requirement that USCIS issue a notice in the **Federal Register** to announce the extension of status and instead allows an automatic extension of status and employment authorization for F–1 students with pending H–1B petitions. If USCIS denies a pending H–1B petition, the student will have the standard 60-day period (from notification of the denial or rejection of the petition) before they have to leave the United States.

Unlike the extension of post-completion OPT, which is limited to F–1 students who have obtained STEM degrees, the extension of status for F–1 students in a cap-gap applies to all F–1 students with pending H–1B petitions during a fiscal year.

C. Related Changes to the OPT Requirements

1. Changes to Post-Completion OPT

Currently, students must apply for post-completion OPT prior to completing their course requirements. 8 CFR 214.2(f)(10)(ii)(A). This is inconsistent with other regulatory provisions allowing students to transfer, apply for a new degree program, or change to another nonimmigrant status

[8] The current regulations also require that the ''Commissioner'' issue the notice in the **Federal Register**. This is a technical error because this regulation has not been updated since the responsibilities of the Commissioner of the former INS were transferred to the Department of Homeland Security in March 2003 under the Homeland Security Act of 2002. Because DHS is removing this provision altogether, there is no need to make the technical correction from ''Commissioner'' to ''Director [of USCIS]'' at this time.

during their 60-day post-completion departure preparation period. Problems also arise if students fail to complete their program after receiving authorization for post-completion OPT. Therefore, this rule allows students to apply for post-completion OPT during the 60-day departure preparation period.

2. Periods of Unemployment During OPT

DHS regulations currently define the period of an F–1 student's status as the time the student is pursuing a full course of study at an SEVP-certified school or engaging in authorized post-completion OPT. 8 CFR 214.2(f)(5). They do not specify how much time the student may be unemployed, making it difficult to determine when an unemployed student on post-completion OPT violates the requirements for remaining in F–1 status. As status during OPT is based on the premise that the F–1 student is working, there must be a limit on unemployment, just as the F–1 student's period in school is based on the premise that he is actually pursuing a full-time course of study, and there are limits on how often the student can reduce his course load. An F–1 student who drops out of school or does not pursue a full-time course of study loses status; an F–1 student with OPT who is unemployed for a significant period should similarly put his status in jeopardy. Therefore, this rule specifies an aggregate maximum allowed period of unemployment of 90 days for students on 12-month OPT. This maximum period increases by 30 days for F–1 students who have an approved 17-month OPT period. In addition to clarifying the student's status, this measure allows time for job searches or a break when switching employers.

III. Regulatory Requirements

A. Administrative Procedure Act

To avoid a loss of skilled students through the next round of H–1B filings in April 2008, DHS is implementing this initiative as an interim final rule without first providing notice and the opportunity for public comment under the ''good cause'' exception found under the Administrative Procedure Act (APA) at 5 U.S.C. 553(b). The APA provides that an agency may dispense with notice and comment rulemaking procedures when an agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' *See* 5 U.S.C. 553(b)(B). The exception excuses notice and comment, however, in emergency situations, or where ''the delay created by the notice and comment requirements would result in serious damage to important interests.'' *Woods Psychiatric Institute* v. *United States,* 20 Cl. Ct. 324, 333 (1990), *aff'd* 925 F.2d 1454 (Fed. Cir. 1991); *see also National Fed'n of Fed. Employees* v. *National Treasury Employees Union,* 671 F.2d 607, 611 (D.C. Cir. 1982).

Currently, DHS estimates, through data collected by SEVP's Student and Visitor Exchange Information System (SEVIS), that there are approximately 70,000 F–1 students on OPT in the United States. About one-third have earned a degree in a STEM field. Many of these students currently are in the United States under a valid post-completion OPT period that was granted immediately prior to the conclusion of their studies last year. Those students soon will be concluding the end of their post-completion OPT and will need to leave the United States unless they are able to obtain an H–1B visa for FY09 or otherwise maintain their lawful nonimmigrant status. DHS estimates that there are 30,205 F–1 students with OPT expiring between April 1 and July 31 of this year. The 17-month extension could more than double the total period of post-completion OPT for F–1 students in STEM fields. Even if only a portion of these students choose to apply for the extension, this extension has the potential to add tens of thousands of OPT workers to the total population of OPT workers in STEM occupations in the U.S. economy.

This interim rule also provides a permanent solution to the ''cap-gap'' issue by an automatic extension of the duration of status and employment authorization to the beginning of the next fiscal year for F–1 students who have an approved or pending H–1B petition. This provision allows U.S. employers and affected students to avoid the gap in continuous employment and the resulting possible violation of status. This increases the ability of U.S. employers to compete for highly qualified employees and makes the United States more competitive in attracting foreign students. Based on the historical numbers of ''cap-gap'' students taking advantage of a **Federal Register** Notice extending F–1 status, ICE estimates that up to 10,000 students will have approved H–1B petitions with FY09 start dates. At the end of their OPT, these students must terminate employment and either depart the United States within 60 days or extend their F–1 status by enrolling in another course of study. Unless this rule, and the cap gap relief it affords, is implemented this Spring, all these students must interrupt their employment and those who leave the United States will not be allowed to return until the October 1, 2008 start date on their H–1B petitions.

The ability of U.S. high-tech employers to retain skilled technical workers, rather than losing such workers to foreign business, is an important economic interest for the United States. This interest would be seriously damaged if the extension of the maximum OPT period to twenty-nine months for F–1 students who have received a degree in science, technology, engineering, or mathematics is not implemented early this spring, before F–1 students complete their studies and, without this rule in place and effective, would be required to leave the United States.

Accordingly, DHS finds that good cause exists under 5 U.S.C. 553(b) to issue this rule as an interim final rule. DHS nevertheless invites written comments on this interim rule. Further, because this interim final rule relieves a restriction by extending the maximum current post-completion OPT period for certain students from 12 months to up to 29 months, DHS finds that this rule shall become effective immediately upon publication of this interim final rule in the **Federal Register**. 5 U.S.C. 553(d).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBRFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). DHS has determined that this rule is exempt from notice and comment rulemaking pursuant to 5 U.S.C. 553(b)(B). An RFA analysis, therefore, is not required for this rule.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This is not a major rule, as defined by Section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the United States economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-

based companies in domestic and export markets.

D. Executive Order 12866

This proposed rule has been designated as a ''significant regulatory action'' under Executive Order 12866. This rule therefore has been submitted to OMB for review. In addition, under section 6(a)(3)(C) of the Executive Order, DHS has prepared an assessment of the benefits and costs anticipated to occur as a result of this regulatory action and provided the assessment to OMB for review. This assessment is as follows:

Recent numbers: This rule will have an impact on a small percentage of international students in the United States. According to the DHS Office of Immigration Statistics, an average of approximately 642,000 F–1 academic students, at all grade levels, have entered the United States per year in fiscal years 2004, 2005, and 2006.[9] According to the Institute of International Education, approximately 583,000 of these students are college students.[10] Of those, SEVP records indicate that close to 70,000 students currently participate in OPT and, of those, only about 23,000 are OPT participants who are studying in designated STEM fields. Thus, about 3.6 percent of F–1 students could potentially benefit from this rule. Nonetheless, as shown below, this may be a sufficient number to significantly benefit employers who are in need of workers in STEM-related fields.

OPT extension volume estimate: A reasonable estimate of the number of students who will participate in this new OPT 17-month extension program is difficult for a number of reasons, but DHS estimates that about 12,000 students will apply for an OPT extension after this rule takes effect. Of the 23,000 OPT students, however, about 4,000 have bachelor's degrees, 13,000 have master's degrees, and 6,000 have a doctorate. Anecdotal evidence indicates that foreign students with a master's or bachelor's degrees often continue as students and pursue more advanced degrees. DHS experience indicates that many of these students will be granted H–1B status and will not need an OPT extension, although actual records do not exist on the rates at which F–1 OPT participants actually receive an H–1B position. Additionally, some students will not request an OPT extension because they are returning to their home country, while many students will want to stay. According to a report from the Oak Ridge Institute for Science and Education, 65 percent of 2000 U.S. science and engineering doctoral degree recipients with temporary visas were still in the United States in 2005, up from a 61 percent 5-year stay rate found in 2003.[11] This implies that STEM students stay in the U.S. at a relatively high rate. And, finally, the changes made by this rule are expected to increase the attractiveness of the OPT program. Although a precise estimate of the effect is impossible, the OPT application volume is likely to increase at least a slight amount because of the impact of this rule on program flexibility, length of stay, and students' quality of life. Therefore, after considering these factors, DHS estimates that about 12,000 of the 23,000 students who could apply for the OPT extension allowed by this rule, will apply in an average year after this rule takes effect.

Public Costs

Fees. The fee for Form I–765 is $340. 8 CFR 103.7(b)(1). Thus, the new filing fees to be collected by USCIS from students requesting an employment authorization document as a result of this rule will be about $4.1 million.[12]

Paperwork burden. The public reporting burden for completion of the Form I–765 information is estimated at 3 hours and 25 minutes per response, including the time for reviewing instructions, completing and submitting the form. As discussed below in the Paperwork Reduction Act section of this rule, this form is being amended to add a space for STEM students to provide their degree, the name of their employer, and their employer's E-Verify Company I.D. number or, if the employer is using a Designated Agent to perform the E-Verify queries, a valid E-Verify Company Client Company I.D. Number. Therefore, the 12,000 students requesting OPT will expend approximately 3.42 hours per application for a total of 41,040 burden hours per year.[13] Based on the private industry employer average compensation costs of $28.03 per hour worked,[14] this requirement will result in an estimated total cost of $1.15 million.[15]

New burden. This rule adds to the current regulation's DSO and student reporting requirements. A student with a 17-month extension to post-completion OPT must also make a validation report to the DSO every six months starting from the date of the extension, within 10 business days, and ending when the student's F–1 status ends, if the student changes educational levels at the same school or the student transfers to another school or program. The validation is a confirmation that the student's information in SEVIS is current and accurate. The DSO is responsible for updating the student's record with SEVIS within 21 days. The DSO must also report in SEVIS when the employer of a student with the 17-month OPT extension reports that the student no longer works for that employer.

Also, this rule makes failure to report a basis for terminating the student's status and provides that failure to report can impact the future visa program and OPT eligibility of the school, employer, and student. Further, the school is required by this rule to report to SEVIS whether there have been any changes in the student's circumstances or not. Although the student is already required to report to the school DSO any changes in their address and their OPT employer's name and address, and the school is then required to report this information to SEVIS, program familiarity and anecdotal evidence indicates that full compliance is lacking. The increased incentives to comply with the reporting requirements provided in this rule will result in about 2.5 additional reports per student per extension period from students to schools and schools to SEVIS. Each report or update will require an estimated 10 minutes. Thus, for the 12,000 students and graduates expected to benefit from this rule, an additional reporting burden of 5,000 hours (12,000 × .42 hours) is estimated to occur for both the student and school for a total of 5,000 additional hours of burden. Based on the private industry employer average compensation costs of $28.03 per hour worked,[16] this requirement

[9] DHS Office of Immigration Statistics, Temporary Admissions of Nonimmigrants to the United States: 2006, ''Nonimmigrant Admissions (I–94 Only) by Class of Admission: Fiscal Years 2004 to 2006.'' Available on line at *http://www.dhs.gov/xlibrary/assets/statistics/publications/NI_FR_2006_508_final.pdf.*

[10] The Institute of International Education, ''International Student and Total U.S. Enrollment'' Available on line at: *http://opendoors.iienetwork.org/?p=113122.*

[11] Finn, Michael, ''Stay Rates of Foreign Doctorate Recipients from U.S. Universities: 2005,'' Oak Ridge Institute for Science and Education (2007).

[12] $340 × 12,000 = $4,080,000.

[13] 3.42 hours (25 minutes = .42 hours) × 12,000.

[14] Employer Costs for Employee Compensation, All civilian occupations, 3rd Quarter 2007, U.S. Department of Labor, Bureau of Labor Statistics at *http://data.bls.gov/cgi-bin/surveymost.* No consideration is given to possibly lower wage rates being applicable for students.

[15] 3.42 hours × 12,000 applications = 41,040. 41,040 × 28.03 = $1,150,351 (rounded).

[16] Employer Costs for Employee Compensation, All civilian occupations, 3rd Quarter 2007, U.S. Department of Labor, Bureau of Labor Statistics at *http://data.bls.gov/cgi-bin/surveymost.* No

Continued

will result in an estimated total cost of $140,150 (5,000 hours × $28.03).

DHS has determined that the currently approved information collection burden for SEVIS contains a high enough estimate of that program's paperwork burden on program participants to encompass this rule's requirements because reporting requirements were already imposed, although not with the utmost clarity. Also, current regulations do not impose any penalty on a school or student for failure to report. SEVP will work with schools on the best way to implement this new reporting requirement so as to maximize its benefit while minimizing its burden on participating students and schools. SEVP is making conforming amendments to its approved information collection for SEVIS and has included the updated burden estimates. Public comments are especially welcome on these changes.

E-Verify Registration. This rule requires employers of F–1 students participating in the 17-month OPT extension to enroll in E-Verify. That will require the employer to register for E-Verify if they wish to hire an employee under the extended OPT. Less than 1 percent of the total number of employers in the United States are currently enrolled in E-Verify and a similar percentage of enrollment in E-Verify would be expected for OPT employers. Thus, DHS anticipates that most employers who would want to employ these students under the 17-month extension would need to register for E-Verify.[17]

The time and cost associated with registering for E-Verify largely depends on the access method a company chooses. The vast majority of companies will sign up for employer access which requires approximately 3 to 4 hours for a person to register online, read and review the Memorandum of Understanding, and take the tutorial. A recent cost analysis for the E-Verify program looked at the associated costs for an organization to undertake the above tasks based on an average salary and the time required. According to this analysis, a company would spend an average of $170 per registration for the Employer Access method. This cost could increase if an employer chose to use a Designated Agent or Web Services as their access method. The Designated Agent costs can vary greatly and would be difficult to estimate as many employers contract with a Designated Agent to perform a variety of human resources related tasks. Web Services would also likely involve a significant cost and time to the employer as they would need to design their own software to interface with the E-Verify system.

DHS has no record of the numbers or identity of employers hiring students under OPT, no figures on those that hire students and also participate in E-Verify, no data on the average number of employees in such firms, and no data on the average number of employees hired by such firms for which the immigration status will have to be verified. However, since this rule is applicable only to STEM students and recent graduates, it is estimated that the employers and positions will be similar in characteristics to those hiring employees in the H–1B specialty worker program. In that program, USCIS records show that in FY 2007, about 29,000 different employers employed at least one of the 65,000 initial H–1B employees (based on employer identification number) with about 20,000 employing only one H–1B employee. Thus, employers hiring new H–1B employees in FY 2007 hired an average of 2.24 each. If the 12,000 students per year that DHS is estimating will receive an OPT extension are distributed along those same lines, as is expected, they will work for approximately 5,357 employers (12,000/2.24). Since about 1.0 percent of employers are already enrolled in E-Verify already, 5,300 employers are estimated to have to enroll in E-Verify as a result of this rule. At $170 per registration for the Employer Access method, the total initial enrollment costs from this rule would be $901,000.[18]

At the end of registration, the company is required to read and sign a Memorandum of Understanding (MOU) that provides the terms of agreement between the employer, SSA, and USCIS. It is expected that each company will have a Human Resources manager review the MOU and that many companies will also have a lawyer and or a general manager review the MOU. Using the Bureau of Labor Statistics (BLS) estimates for the average hourly labor rate, plus a multiplier of 1.4 to account for fringe benefits, DHS calculated a labor rate of $48.33 for an HR manager, $60.93 per hour for a general manager, and $76.09 for legal counsel.[19] Based on the amount of time that company employees are expected to spend reviewing and approving the MOU, DHS estimates this rule will cost the 5,300 establishments that must enroll in E-Verify in order to hire OPT students about $64 each or a total of $339,200 to review, approve, and sign the MOU.

New hire verification. This rule will require the affected employers of students to verify the status of every new employee they hire using E-Verify.[20] To calculate this annual cost, DHS estimated the number of new employees hired by these employers in an average year. While there is no record of the average size of an employer of OPT students, it is assumed that the average monthly and annual employee hire rate for these employers is consistent with the average. An estimate of the average number of employees may be made based on the average number of employees per firm in industries where STEM employment is prevalent. The 2002 Economic Census[21] indicates that, as of 2002, in industries where STEM employment is most prevalent, 1.7 million firms have 26.5 million employees, or an average of 16 employees per firm.[22] According to the Bureau of Labor Statistics, the new hires rate (number of hires to the payroll during the month as a percent of total employment) in the industries where STEM employment is believed to be most prevalent was about 2.5 percent in February 2008.[23] Therefore, for 12 months, newly hired and rehired employees amount to about 30 percent (12 months × 2.5 percent monthly hire rate) of the total number of current employees in the STEM related industries. For an establishment with 16 employees, that hire rate would result in about 5 new hires per year.

To verify new hires, the E-Verify participant company must submit a query before the end of three business days after the new hire's actual start

consideration is given to possibly lower wage rates being applicable for students.

[17] No allowance is made for the few employers that would choose to no longer hire students under OPT because of this requirement.

[18] It is assumed for this analysis that there would be no initial costs for acquiring computers or Internet connections for employers that would hire an OPT student or graduate with an STEM major study area.

[19] The 1.4 multiplier used here to adjust base compensation levels to account for private industry compensation costs was taken from the BLS publication ''Employer Costs for Employee Compensation—March 2007.''

[20] There is no requirement that these employers verify the immigration status of their current employees.

[21] Available on line at *http://www.census.gov/econ/census02/guide/SUBSUMM.HTM.*

[22] Information: 3,736,061 employees, 137,678 establishments. Professional, Scientific, and Technical Services: 7,243,505 employees, 771,305 establishments. Educational Services: 430,164 employees, 49,319 establishments. Health Care and Social Assistance: 15,052,255 workers, 704,526 establishments.

[23] Bureau of Labor Statistics, Job Openings and Labor Turnover Survey. Available on line at *http://www.bls.gov/web/ceshighlights.pdf.*

date. Based on the number of queries and case resolutions for the current E-Verify program from January through June of 2007, the time required to enter this information into the computer and submit the query, and the costs incurred by an employee to challenge occurrences of tentative nonconfirmation, DHS has calculated the combined costs incurred by an employer and prospective employee to verify each new hire to be about $6.36 per new hire. Thus, the annual public cost incurred for verification of new hires for the 5,300 employers affected by this rule is around $168,540 (5,300 × 5 × $6.36).

In summary, the total public cost of this rule requiring employers of F–1 students participating in the 17-month OPT extension to enroll in E-Verify will be $1,240,000 ($901,000 + $339,200) up front and $168,540 per year thereafter.

Government Costs

This rule requires no additional outlays of DHS funds. The requirements of this rule and the associated benefits are funded by fees collected from persons requesting these benefits. The fees are deposited into the Immigration Examinations Fee Account. These fees are used to fund the full cost of processing immigration and naturalization benefit applications and petitions and associated support services.

Public Benefit

Improved U.S. competitive position for STEM students and employees. The primary benefits to be derived from allowing the extension of OPT relates to maintaining and improving the United States competitive position in the market. Over the past 20 years, there has been a sustained globalization of the STEM labor force, according to the National Science Board's ''Science and Engineering Indicators 2008.'' Increased globalization has turned the labor market for STEM workers into a worldwide marketplace.[24] Today, investment crosses borders in search of available talent, talented people cross borders in search of work, and employers recruit internationally. Slowing of the growth of the science and engineering labor force in the United States could affect both technological change and economic growth. As a result, the United States must be successful in the increasing international competition for immigrant and temporary nonimmigrant scientists and engineers. The employment-based immigrant visa ceiling makes it difficult for foreign students to stay in the United States permanently after their studies because long delays in the immigrant visa process usually makes it impractical to be directly hired with an immigrant visa. Though obtaining a nonimmigrant work visa like an H–1B is a much quicker process, the oversubscription of the H–1B program makes obtaining even temporary work authorization an uncertain prospect. Studies show that the most talented employees worldwide are increasingly unwilling to tolerate the long waits and uncertainty entailed in coming to work temporarily in or immigrating to the United States. Instead, they are going to Europe, Canada, Australia and other countries where knowledge workers face fewer immigration difficulties.[25] This rule will help ease this difficulty by adding an estimated 12,000 OPT students to the STEM-related workforce. With only 65,000 H–1B visas available annually, this number represents a significant expansion of the available pool of skilled workers.

Student's quality of life. The most significant qualitative improvement made by this rule is the enhancement related to improving the quality of life for participating students by making available an extension of OPT status for up to 17 months for certain students following post-completion OPT. Additionally, the changes to the cap gap provision for F–1 students will allow up to 10,000 students to remain in the United States and work while waiting to become an H–1B worker. These and similar changes made by this rule will significantly enhance the experience of the student who participates in the program by potentially allowing them more time and flexibility while considering employment in the United States. Students should experience much less stress about their need to comply with tight time frames or risk being out of status. These changes will result an increase in the attractiveness of the program.

Conclusion

This rule will cost students approximately $1.49 million per year in additional information collection burdens, $4,080,000 in fees, and cost employers $1,240,000 to enroll in E-Verify and $168,540 per year thereafter to verify the status of new hires. However, this rule will increase the availability of qualified workers in science, technology, engineering, and mathematical fields; reduce delays that place U.S. employers at a disadvantage when recruiting foreign job candidates; increase the quality of life for participating students, and increase the integrity of the student visa program. Thus, DHS has determined that the benefits of this rule to the public exceed its costs.

E. Executive Order 13132

This rule 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. Therefore, in accordance with section 6 of Executive Order 13132, DHS has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all departments are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. To implement the changes discussed in this rulemaking, USCIS is making conforming amendments to Form I–765, Application for Employment Authorization (current OMB Control No. 1615–0040), which is used by students to apply for pre- and post-completion OPT. Specifically, this form is being amended to add a new question #17, asking STEM students to provide their degree, the name of their employer (as listed in E-Verify), and their employer's E-Verify Company identification number or, if the employer is using a Designated Agent to perform the E-Verify queries, a valid E-Verify Client Company identification number. The collection of this information is necessary to ensure that F–1 students seeking a 17-month extension of their post-completion OPT are, in fact, eligible to do so. E-Verify has been approved by OMB under OMB Control No. 1615–0092. USCIS will submit an OMB Correction Worksheet (OMB 83–C), increasing the number of respondents, for both Form I–765 and E-Verify (OMB Control No. 1615–0092).

To implement the changes discussed in this rulemaking, SEVP is making

[24] National Science Foundation, National Science Board, ''Science and Engineering Indicators 2008.'' Available on line at *http://www.nsf.gov/statistics/seind08/.*

[25] E.g. Hansen, Fay, ''Green Card Recruiting,'' Workforce Management, Recruiting and Staffing (Jan. 2007). Available on line at *http://www.workforce.com/section/06/feature/24/64/42/index.html.*

conforming amendments to its information collection for the Student and Exchange Visitor Information System (SEVIS; current OMB Control No. 1653–0038). This authorization encompasses all data collected to meet the requirements of the Student and Exchange Visitor Program (SEVP). This further includes completion of Forms I–20, Certificate of Eligibility for Nonimmigrant Student Status, which are updated and generated by SEVIS in the recommendation for employment authorization and tracking of activity. The reporting requirements in this rule will impact 3% of the total number of F–1 students, those who are eligible for the 29-month OPT option. Additions to the reporting burden include:

- DSO verification of student qualification for OPT and issuance of a Form I–20 recommending the 17-month extension of OPT for STEM students (five minutes per student applicant);
- Semiannual verification of student and employment information in SEVIS for all students with an approved 17-month extension of OPT (five minutes for both the student and a DSO per verification); and
- Updates to SEVIS records of about 25% of the students with an approved 17-month OPT who report a change in student name, student address, employer name, or employer address (five minutes for both the students and a DSO per verification).
- Updates by the DSO to SEVIS based on an estimated 600 reports by an employer that the student's employment has ended (five minutes for the reporting DSO).

The aggregate annual increased burden related to all students on extended OPT is 12.5 minutes per student and 20 minutes per supporting DSO. Accordingly, SEVP has submitted the amended Supporting Statement, along with an OMB Correction Worksheet (OMB 83–C), increasing the number of respondents, the annual reporting burden hours and annual reporting burden cost for submitting.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 8 CFR part 214 is amended as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; section 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

■ 2. Amend § 214.2(f) by:
■ a. Revising paragraph (f)(5)(vi); and
■ b. Revising paragraphs (f)(10)(ii)(A), (C), and (E); and by;
■ c. Revising paragraphs (f)(11) and (f)(12).

The revisions read as follows:

§ 214.2 Special requirements for admission, extension and maintenance of status.

* * * * *

(f) * * *

(5) * * *

* * * * *

(vi) *Extension of duration of status and grant of employment authorization.*

(A) The duration of status, and any employment authorization granted under 8 CFR 274a.12(c)(3)(i)(B) and (C), of an F–1 student who is the beneficiary of an H–1B petition and request for change of status shall be automatically extended until October 1 of the fiscal year for which such H–1B visa is being requested where such petition:

(*1*) Has been timely filed; and

(*2*) States that the employment start date for the F–1 student is October 1 of the following fiscal year.

(B) The automatic extension of an F–1 student's duration of status and employment authorization under paragraph (f)(5)(vi)(A) of this section shall immediately terminate upon the rejection, denial, or revocation of the H–1B petition filed on such F–1 student's behalf.

(C) In order to obtain the automatic extension of stay and employment authorization under paragraph (f)(5)(vi)(A) of this section, the F–1 student, according to 8 CFR part 248, must not have violated the terms or conditions of his or her nonimmigrant status.

(D) An automatic extension of an F–1 student's duration of status under paragraph (f)(5)(vi)(A) of this section also applies to the duration of status of any F–2 dependent aliens.

* * * * *

(10) * * *

(ii) *Optional practical training.*

(A) *General.* Consistent with the application and approval process in paragraph (f)(11) of this section, a student may apply to USCIS for authorization for temporary employment for optional practical training directly related to the student's major area of study. The student may not begin optional practical training until the date indicated on his or her employment authorization document, Form I–766. A student may be granted authorization to engage in temporary employment for optional practical training:

(*1*) During the student's annual vacation and at other times when school is not in session, if the student is currently enrolled, and is eligible for registration and intends to register for the next term or session;

(*2*) While school is in session, provided that practical training does not exceed 20 hours a week while school is in session; or

(*3*) After completion of the course of study, or, for a student in a bachelor's, master's, or doctoral degree program, after completion of all course requirements for the degree (excluding thesis or equivalent). Continued enrollment, for the school's administrative purposes, after all requirements for the degree have been met does not preclude eligibility for optional practical training. A student must complete all practical training within a 14-month period following the completion of study, except that a 17-month extension pursuant to paragraph (f)(10)(ii)(C) of this section does not need to be completed within such 14-month period.

* * * * *

(C) *17-month extension of post-completion OPT for students with a science, technology, engineering, or mathematics (STEM) degree.* Consistent with paragraph (f)(11)(i)(C) of this section, a qualified student may apply for an extension of OPT while in a valid period of post-completion OPT. The extension will be for an additional 17 months, for a maximum of 29 months of OPT, if all of the following requirements are met.

(*1*) The student has not previously received a 17-month OPT extension after earning a STEM degree.

(*2*) The degree that was the basis for the student's current period of OPT is a bachelor's, master's, or doctoral degree in one of the degree programs on the current STEM Designated Degree Program List, published on the SEVP Web site at *http://www.ice.gov/sevis.*

(*3*) The student's employer is registered in the E-Verify program, as evidenced by either a valid E-Verify company identification number or, if the employer is using a designated agent to perform the E-Verify queries, a valid E-Verify client company identification number, and the employer is a participant in good standing in the E-Verify program, as determined by USCIS.

(*4*) The employer agrees to report the termination or departure of an OPT employee to the DSO at the student's school or through any other means or process identified by DHS if the termination or departure is prior to end of the authorized period of OPT. Such reporting must be made within 48 hours of the event. An employer shall consider a worker to have departed when the employer knows the student has left the employment or if the student has not reported for work for a period of 5 consecutive business days without the consent of the employer, whichever occurs earlier.

(D) *Duration of status while on post-completion OPT.* For a student with approved post-completion OPT, the duration of status is defined as the period beginning when the student's application for OPT was properly filed and pending approval, including the authorized period of post-completion OPT, and ending 60 days after the OPT employment authorization expires (allowing the student to prepare for departure, change educational levels at the same school, or transfer in accordance with paragraph (f)(8) of this section).

(E) *Periods of unemployment during post-completion OPT.* During post-completion OPT, F–1 status is dependent upon employment. Students may not accrue an aggregate of more than 90 days of unemployment during any post-completion OPT carried out under the initial post-completion OPT authorization. Students granted a 17-month OPT extension may not accrue an aggregate of more than 120 days of unemployment during the total OPT period comprising any post-completion OPT carried out under the initial post-completion OPT authorization and the subsequent 17-month extension period.

(11) *OPT application and approval process.*

(i) *Student responsibilities.* A student must initiate the OPT application process by requesting a recommendation for OPT from his or her DSO. Upon making the recommendation, the DSO will provide the student a signed Form I–20 indicating that recommendation.

(A) *Application for employment authorization.* The student must properly file a Form I–765, Application for Employment Authorization, with USCIS, accompanied by the required fee for the Form I–765, and the supporting documents, as described in the form's instructions.

(B) *Filing deadlines for pre-completion OPT and post-completion OPT.*

(*1*) Students may file a Form I–765 for pre-completion OPT up to 90 days before being enrolled for one full academic year, provided that the period of employment will not start prior to the completion of the full academic year.

(*2*) For post-completion OPT, the student must properly file his or her Form I–765 up to 90 days prior to his or her program end-date and no later than 60 days after his or her program end-date. The student must also file the Form I–765 with USCIS within 30 days of the date the DSO enters the recommendation for OPT into his or her SEVIS record.

(C) *Applications for 17-month OPT extension.* A student meeting the eligibility requirement in paragraph (f)(10)(ii)(C) of this section may file for a 17-month extension of employment authorization by filing Form I–765, Application for Employment Authorization, with the appropriate fee, prior to the expiration date of the student's current OPT employment authorization. If a student timely and properly files an application for a 17-month OPT extension, but the Form I–766, Employment Authorization Document, currently in the student's possession, expires prior to the decision on the student's application for 17-month OPT extension, the student's Form I–766 is extended automatically pursuant to the terms and conditions specified in 8 CFR 274a.12(b)(6)(iv).

(D) *Start of employment.* A student may not begin employment prior to the approved starting date on his or her employment authorization except as noted in paragraph (f)(11)(i)(C) of this section. A student may not request a start date that is more than 60 days after the student's program end date. Employment authorization will begin on the date requested or the date the employment authorization is adjudicated, whichever is later.

(ii) *DSO responsibilities.* A student needs a recommendation from his or her DSO in order to apply for OPT. When a DSO recommends a student for OPT, the school assumes the added responsibility for maintaining the SEVIS record of that student for the entire period of authorized OPT, consistent with paragraph (f)(12) of this section.

(A) Prior to making a recommendation, the DSO must ensure that the student is eligible for the given type and period of OPT and that the student is aware of his or her responsibilities for maintaining status while on OPT. Prior to recommending a 17-month OPT extension, the DSO must certify that the student's degree, as shown in SEVIS, is a bachelor's, master's, or doctorate degree with a degree code that is on the current STEM Designated Degree Program List.

(B) The DSO must update the student's SEVIS record with the DSO's recommendation for OPT before the student can apply to USCIS for employment authorization. The DSO will indicate in SEVIS whether the employment is to be full-time or part-time, and note in SEVIS the start and end date of employment.

(C) The DSO must provide the student with a signed, dated Form I–20 indicating that OPT has been recommended.

(iii) *Decision on application for OPT employment authorization.* USCIS will adjudicate the Form I–765 and, if approved, issue an EAD on the basis of the DSO's recommendation and other eligibility considerations.

(A) The employment authorization period for post-completion OPT begins on the date requested or the date the employment authorization application is approved, whichever is later, and ends at the conclusion of the remaining time period of post-completion OPT eligibility. The employment authorization period for the 17-month OPT extension begins on the day after the expiration of the initial post-completion OPT employment authorization and ends 17 months thereafter, regardless of the date the actual extension is approved.

(B) USCIS will notify the applicant of the decision and, if the application is denied, of the reason or reasons for the denial.

(C) The applicant may not appeal the decision.

(12) *Reporting while on optional practical training.*

(i) *General.* An F–1 student who is authorized by USCIS to engage in optional practical training (OPT) employment is required to report any change of name or address, or interruption of such employment to the DSO for the duration of the optional practical training. A DSO who recommends a student for OPT is responsible for updating the student's record to reflect these reported changes for the duration of the time that training is authorized.

(ii) *Additional reporting obligations for students with an approved 17-month OPT.* Students with an approved 17-month OPT extension have additional reporting obligations. Compliance with these reporting requirements is required to maintain F–1 status. The reporting obligations are:

(A) Within 10 days of the change, the student must report to the student's DSO a change of legal name, residential or mailing address, employer name, employer address, and/or loss of employment.

(B) The student must make a validation report to the DSO every six months starting from the date the extension begins and ending when the student's F–1 status ends, the student changes educational levels at the same school, or the student transfers to another school or program, or the 17-month OPT extension ends, whichever is first. The validation is a confirmation that the student's information in SEVIS for the items in listed in paragraph (f)(12)(ii)(A) of this section is current and accurate. This report is due to the student's DSO within 10 business days of each reporting date.

■ 3. Amend § 214.3 to add paragraph (g)(3)(ii)(F) as follows:

§ 214.3 Approval of schools for enrollment of F and M nonimmigrants.

* * * * *

(g) * * *

(3) * * *

(ii) * * *

(F) For F–1 students authorized by USCIS to engage in a 17-month extension of OPT,

(*1*) Any change that the student reports to the school concerning legal name, residential or mailing address, employer name, or employer address; and

(*2*) The end date of the student's employment reported by a former employer in accordance with § 214.2(f)(10)(ii)(C)(*4*).

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 4. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

■ 5. Amend § 274a.12 by:

■ a. Adding paragraph (b)(6)(iv) and (v); and

■ b. Revising paragraph (c)(3).

The revisions read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

(b) * * *

(6) * * *

(iv) A Form I–766, ''Employment Authorization Document,'' under 8 CFR 274a.12(c)(3)(i)(C) based on a 17-month STEM Optional Practical Training extension, and whose timely filed Form I–765, ''Application for Employment Authorization,'' is pending and Form I–766 issued under 8 CFR 274a.12(c)(3)(i)(B) has expired. Employment is authorized beginning on the expiration date of Form I–766 issued under 8 CFR 274a.12(c)(3)(i)(B) and ending on the date of USCIS' written decision on Form I–765, but not to exceed 180 days; or

(v) Or pursuant to 8 CFR 214.2(h) is seeking H–1B nonimmigrant status and whose duration of status and employment authorization have been extended pursuant to 8 CFR 214.2(f)(5)(vi).

* * * * *

(c) * * *

(3) A nonimmigrant (F–1) student who:

(i)(A) Is seeking pre-completion practical training pursuant to 8 CFR 214.2(f)(10)(ii)(A)(*1*)–(*2*);

(B) Is seeking authorization to engage in post-completion Optional Practical Training (OPT) pursuant to 8 CFR 214.2(f)(10)(ii)(A)(*3*); or

(C) Is seeking a 17-month STEM OPT extension pursuant to 8 CFR 214.2(f)(10)(ii)(C);

* * * * *

Dated: April 2, 2008.

Michael Chertoff,

Secretary.

[FR Doc. E8–7427 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–29373; Airspace Docket No. 07–ASW–10]

Establishment of Class D Airspace; Georgetown, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will establish Class D airspace at Georgetown, Texas. Establishment of an air traffic control tower at Georgetown Municipal Airport has made this action necessary for the safety and management of Instrument Flight Rules (IFR) aircraft operations at Georgetown Municipal Airport, Georgetown, TX.

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

FOR FURTHER INFORMATION CONTACT: Gary Mallett, Central Service Center, System Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, Texas 76193–0530; telephone (817) 222–4949.

SUPPLEMENTARY INFORMATION:

History

On December 18, 2007, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Class D airspace at Georgetown, Texas (72 FR 71608). This action would improve the safety of IFR aircraft at Georgetown Municipal Airport, Georgetown, Texas. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR), part 71, by establishing Class D airspace at Georgetown, Texas. A new air traffic control tower has been installed at Georgetown Municipal Airport, making this action necessary for the safety and management of IFR aircraft operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a

significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code, Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Georgetown Municipal Airport, Georgetown, Texas.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; F. 0. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Georgetown, Texas [New]

Georgetown Municipal Airport, Texas
(Lat. 30°40′44″ N., long. 97°40′46″ W.)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 5-mile radius of Georgetown Municipal Airport. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX on: March 27, 2008.

Donald R. Smith,

Manager, System Support Group, ATO Central Service Center.

[FR Doc. E8–7095 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–29164; Airspace Docket No. 07–ANM–14]

Establishment of Class E Airspace; Pagosa Springs, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will establish Class E airspace at Pagosa Springs, CO. Controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Stevens Field. This will improve the safety of Instrument Flight Rules (IFR) aircraft executing the new RNAV GPS SIAP at Stevens Field, Pagosa Springs, CO.

DATES: *Effective Date:* 0901 UTC, July 31, 2008. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On January 18, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Class E airspace at Pagosa Springs, CO, (73 FR 3430). This action would improve the safety of IFR aircraft executing a new RNAV GPS SIAP approach procedure at Stevens Field, Pagosa Springs, CO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9R signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Pagosa Springs, CO. Additional controlled airspace is necessary to accommodate IFR aircraft executing a new RNAV (GPS) approach procedure at Stevens Field, Pagosa Springs, CO.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAAs authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Stevens Field, Pagosa Springs, CO.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005. Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO, E5 Pagosa Springs, CO [New]

Stevens Field, Pagosa Springs, CO
(Lat. 37°17′11″ N., long. 107°3′22″ W.)

That airspace extending upward from 700 feet above the surface within a 10.0-mile radius of Stevens Field and within 8.0 miles each side of the 169° bearing from the airport extending from the 10.0 mile radius to 25.0 miles south of the airport.

* * * * *

Issued in Seattle, Washington, on March 28, 2008.

Clark Desing,

Manager, System Support Group, Western Service Center.

[FR Doc. E8–7243 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feed; Zilpaterol; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Intervet Inc. The NADA provides for use of approved, single-ingredient Type A medicated articles containing zilpaterol hydrochloride, monensin USP, tylosin phosphate, and melengestrol acetate in four-way combination Type B and Type C medicated feeds for heifers fed in confinement for slaughter.

DATES: This rule is effective April 8, 2008.

FOR FURTHER INFORMATION CONTACT: Gerald L. Rushin, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8103, e-mail: *gerald.rushin@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Intervet Inc., P.O. Box 318, 29160 Intervet Lane, Millsboro, DE 19966, filed NADA 141–280 that provides for use of ZILMAX (zilpaterol hydrochloride), and RUMENSIN (monensin USP), TYLAN (tylosin phosphate), and MGA (melengestrol acetate) Type A medicated articles to make dry and liquid four-way combination Type B and Type C medicated feeds used for increased rate of weight gain, improved feed efficiency, and increased carcass leanness; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*; and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium* (*Actinomyces*) *pyogenes*; and suppression of estrus (heat) in heifers fed in confinement for slaughter during the last 20 to 40 days on feed. The NADA is approved as of February 29, 2008, and the regulations in 21 CFR 558.342 and 558.665 are amended to reflect the approval.

In addition, FDA has noticed that the codified indications for use of tylosin in combination with melengestrol and lasalocid are not consistent with the conditions of use approved for an abbreviated new animal drug application (71 FR 39204, July 12, 2006). At this time, the indications for use are revised to include the associated pathogens. This action is being taken to improve the accuracy of the regulations.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 2. In § 558.342, revise paragraphs (e)(1)(iv) and (e)(2) to read as follows:

§ 558.342 Melengestrol.

* * * * *

(e) * * *

(1) * * *

Melengestrol acetate in mg/head/day	Combination in mg/head/day	Indications for use	Limitations	Sponsor
* *	*	*	* *	*
(iv) 0.25 to 0.5	Lasalocid 100 to 360 plus tylosin 90.	Heifers fed in confinement for slaughter: As in paragraph (e)(1)(i) of this section; and for reduced incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Actinomyces (Corynebacterium) pyogenes*.	To administer 0.25 to 0.5 mg melengestrol acetate plus 100 to 360 mg lasalocid plus 90 mg tylosin/head/day: 1. Add 0.5 to 2.0 lb/head/day of a liquid or dry medicated feed containing 0.125 to 1.0 mg melengestrol acetate/lb to a medicated feed containing 10 to 30 g lasalocid and 8 to 10 g tylosin per ton; or 2. Add 0.5 to 2.0 lb/head/day of a liquid or dry medicated feed containing 0.125 to 1.0 mg melengestrol acetate plus 50 to 720 mg lasalocid/lb to 4.5 to 18 lb of a dry medicated feed containing 10 to 40 g tylosin per ton; or 3. Add 0.5 to 2.0 lb/head/day of a dry pelleted medicated feed containing 0.125 to 1.0 mg melengestrol acetate (from a dry Type A article), 50 to 720 mg lasalocid, and 45 to 180 mg tylosin/lb to a ration of nonmedicated feed. Lasalocid provided by No. 046573 and tylosin as tylosin phosphate by No. 000986 in § 510.600(c) of this chapter.	000009, 021641
* *	*	*	* *	*

(2) Melengestrol may also be used with:

(i) Ractopamine as in § 558.500 of this chapter.

(ii) Zilpaterol as in § 558.665 of this chapter.

■ 3. In § 558.665, add paragraph (e)(5) to read as follows:

§ 558.665 Zilpaterol.

* * * * *

(e) * * *

Zilpaterol in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
* *	*	*	* *	*
(5) 6.8 to provide 60 to 90 mg/head/day.	Monensin 10 to 40, plus tylosin 8 to 10, plus melengestrol acetate to provide 0.25 to 0.5 mg/ head/ day.	Heifers fed in confinement for slaughter: As in paragraph (e)(1) of this section; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*; for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium (Actinomyces) pyogenes*; and for suppression of estrus (heat).	As in paragraph (e)(1) of this section; see §§ 558.342(d), 558.355(d), and 558.625(c) of this chapter. Monensin and tylosin as provided by No. 000986; melengestrol acetate as provided by No. 000009 in § 510.600(c) of this chapter.	057926

Dated: March 24, 2008.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E8–7307 Filed 4–7–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0037]

Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL, Quad City Marathon

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operations of the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, Mile 482.9, Rock Island, Illinois. The deviation is necessary as the drawbridge is part of the annual route for the Quad City Marathon. This deviation allows the bridge to remain in the closed-to-navigation position during the event.

DATES: This deviation is effective from 7:30 a.m. until 11:30 a.m., September 28, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0037 and are available online at *www.regulations.gov.* They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Robert A. Young Federal Building, Room 2.107F, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

SUPPLEMENTARY INFORMATION: The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, Mile 482.9, at Rock Island, Illinois, across the Upper Mississippi to remain in the closed-to-navigation position as the drawbridge is part of the Annual Quad City Marathon route. The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. In order to facilitate the annual event, the drawbridge must be kept in the closed-to-navigation position. This deviation allows the bridge to remain in the closed-to-navigation position for four hours from 7:30 a.m. until 11:30 a.m., September 28, 2008.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 23.8 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: March 20, 2008.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. E8–7382 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0036]

Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL, Quad Cities Heart Walk

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operations of the Rock Island Railroad and Highway Drawbridge, across the Upper Mississippi River, Mile 482.9, Rock Island, Illinois. The deviation is necessary as the drawbridge is part of the annual route for the Quad Cities Heart Walk. This deviation allows the bridge to remain in the closed-to navigation position during that event.

DATES: This temporary deviation is effective from 8:30 a.m. until 11 a.m., May 17, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0036 and are available online at *www.regulations.gov.* They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Robert A. Young Federal Building, Room 2.107F, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

SUPPLEMENTARY INFORMATION: The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, mile 482.9, at Rock Island, Illinois across the Upper Mississippi to remain in the closed-to-navigation position as the drawbridge is part of the Annual Quad Cities Heart Walk. The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. In order to facilitate the annual event, the drawbridge must be kept in the closed-to-navigation position. This deviation allows the bridge to remain in the closed-to-navigation position for two and one half hours from 8:30 a.m. until 11 a.m., May 17, 2008.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 23.8 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: March 20, 2008.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. E8–7381 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0223]

Drawbridge Operation Regulations; Sacramento River, Sacramento, CA, Event—Grand Opening Celebration

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the bridge owner, the California Department of Transportation (Caltrans), to celebrate the completion of the newly refurbished drawbridge. This deviation allows the bridge to remain in the closed-to-navigation position during the event.

DATES: This deviation is effective from 11 a.m. through 3 p.m. on April 12, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0223 and are available online at *www.regulations.gov*. They are also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, Sacramento River, at Sacramento, CA. The Tower Drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times the draw shall open on signal if at least four hours notice is given, as required by 33 CFR 117.189. Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position 11 a.m. through 3 p.m. on April 12, 2008 to allow the public to participate in the Grand Opening Celebration of the newly refurbished drawbridge. This temporary deviation has been coordinated with waterway users. There are no scheduled river boat cruises or anticipated levee maintenance during this deviation period. No objections to the proposed temporary deviation were raised.

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

In the event of an emergency the drawspan can be opened with 45 minutes advance notice.

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

Dated: 28 March 2008.

J.E. Long,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E8–7380 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2007–0140]

RIN 1625–AA00

Safety Zone; Colorado River, Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Lake Moolvalya region on the navigable waters of the Colorado River in Parker, Arizona for the Bluewater Resort and Casino American Powerboat Association (APBA) National Tour/Regional Championship. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the race, and general users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designation representative.

DATES: This rule is effective from 6 a.m. to 6 p.m. on May 2, 2008 through May 4, 2008.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG–2007–0140 and are available for inspection or copying at Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST3 Kristen Beer, Waterways Management, U.S. Coast Guard Sector San Diego, CA at (619) 278–7233.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 7, 2008, we published a notice of proposed rulemaking (NPRM) entitled Safety zone, Colorado River, Parker, AZ in the **Federal Register** (73 FR 7231). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

RPM Racing Enterprises is sponsoring the Bluewater Resort and Casino APBA National Tour/Regional Championship, which is held on the Lake Moolvalya region on the Colorado River in Parker, AZ. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other users of the waterway.

This event involves powerboats racing along a circular track. The size of the boats varies from eight to 15 feet. Approximately 130 to 150 boats will participate in this event. The sponsor has provided two water rescue and two patrol vessels to patrol this event.

Discussion of Comments and Changes

No changes will be made to the rule, since no comments were received.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that

Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The safety zone is of a limited duration, and is limited to a relatively small geographic area. A race Patrol Commander will be on-scene and will authorize recreational traffic when vessel movement is safe.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Colorado River, Parker, AZ from 6 a.m. to 6 p.m. on May 4, 2008. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only twelve (12) hours in the day for a period of three (3) days. Before the effective period, we will submit an inclusion in the Local Notice to Mariners (LNM).

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule, or if you have questions concerning its provisions or options for compliance, please contact MST3 Kristen Beer, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278–7233.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 22 CFR

1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary § 165.T11–261 to read as follows:

§ 165.T11–261 Safety Zone; Colorado River, Parker, AZ.

(a) *Location*. The Coast Guard proposes to establish a temporary safety zone for the Bluewater Resort and Casino APBA National Tour/Regional Championship. The limits of this proposed temporary safety zone would include that portion of the Colorado River from Headgate Dam to 0.5 miles north of Bluewater Marine, Parker, AZ.

(b) *Effective Period*. This section is effective from 6 a.m. to 6 p.m. from May 2 through May 4, 2008.

(c) *Regulations*. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port San Diego or his designated on-scene representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF–FM Channel 16.

Dated: March 17, 2008.

C.V. Strangfeld,

Captain, U.S. Coast Guard, Captain of the Port, San Diego.

[FR Doc. E8–7385 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0036–200801(a); FRL–8551–9]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the 1-Hour Ozone Maintenance Plan for the Raleigh/Durham and Greensboro/Winston-Salem/High Point Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a February 4, 2008, revision to the State Implementation Plan (SIP) submitted by the North Carolina Department of Environment and Natural Resources (NCDENR) on behalf of the State of North Carolina for the purpose of revising the subarea motor vehicle emissions budgets (MVEBs) for the Greensboro/Winston-Salem/High Point area. The Greensboro/Winston-Salem/High Point 1-hour ozone maintenance area (hereafter referred to as the ''Triad Area'') is comprised of Davidson, Forsyth, and Guilford Counties and a portion of Davie County. The revisions to the subarea MVEBs are approvable because of an available safety margin for volatile organic compounds (VOC) and nitrogen oxides (NO_X) for this Area.

DATES: This direct final rule is effective June 9, 2008 without further notice, unless EPA receives adverse comments by May 8, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0036, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

(a) *E-mail: ward.nacosta@epa.gov* or *wood.amanetta@epa.gov*.

(b) *Fax:* (404) 562–9019.

2. *Mail:* EPA–R04–OAR–2008–0036, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

3. *Hand Delivery or Courier:* Nacosta C. Ward, Regulatory Development Section, or Amanetta Wood, Air Quality Modeling Transportation Section, of the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2008–0036. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. 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 electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Nacosta C. Ward of the Regulatory Development Section, or Ms. Amanetta Wood, Air Quality Modeling Transportation Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone numbers are (404) 562–9140 and (404) 562–9025 respectively. Ms. Nacosta Ward can be reached via electronic mail at *ward.nacosta@epa.gov*. Ms. Amanetta

Wood can be reached via electronic mail at *wood.amanetta@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. What Action is EPA Taking?

EPA is taking direct final action to approve North Carolina's SIP revision submitted on February 4, 2008, which includes revisions to the subarea [1] 2010, 2012, and 2015 MVEBs for VOC and NO_X for the Triad Area because it meets all requirements of section 110 of the Clean Air Act (''CAA'' or ''Act''). These new MVEBs revise those established in a September 20, 2004 (69 FR 56163) direct final rulemaking entitled ''Approval and Promulgation of Implementation of Plans; North Carolina: Raleigh/Durham Area and Greensboro/Winston-Salem/High Point Area Maintenance Plan Updates.'' The revised subarea MVEBs are in the below tables:

TABLE 1.—DAVIDSON COUNTY MVEBS

[Tons/day]

	Revised subarea MVEBs		
	2010	2012	2015
VOC	4.91	4.50	4.12
NO_X	8.09	6.83	5.15

TABLE 2.—DAVIE* COUNTY MVEBS

[Tons/day]

	Revised subarea MVEBs		
	2010	2012	2015
VOC	0.03	0.03	0.03
NO_X	0.05	0.05	0.05

*The Davie County MVEBs are for the portion of Davie County in the maintenance area.

TABLE 3.—FORSYTH COUNTY MVEBS

[Tons/day]

	Revised subarea MVEBs		
	2010	2012	2015
VOC	10.31	9.36	8.50
NO_X	15.04	12.72	9.59

TABLE 4.—GUILFORD COUNTY MVEBS

[Tons/day]

	Revised subarea MVEBs		
	2010	2012	2015
VOC	14.86	13.46	12.17
NO_X	20.87	17.66	13.28

This direct final rulemaking is in response to North Carolina's February 4, 2008, SIP submittal which supersedes North Carolina's December 20, 2007, submittal that included a request for parallel processing.

II. What Is the Background for EPA's Action?

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for ozone attainment areas. These control strategy SIPs (reasonable further progress and attainment demonstration, etc.) and maintenance plans establish MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Pursuant to 40 CFR part 93, an MVEB is established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. States also have the option to revise MVEBs at any time through a SIP revision. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. See, 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

The Triad Area was designated as a nonattainment area for the 1-hour ozone national ambient air quality standard (''NAAQS'' or ''standard'') on November 6, 1991 (56 FR 56694). In 1993, after the area had three consecutive years, 1990–1992, of air quality data showing attainment of the standard, the State of North Carolina, through NCDENR, submitted a redesignation request and a maintenance plan for the Triad Area for the 1-hour ozone NAAQS. On September 9, 1993, EPA redesignated the Triad Area to attainment for the 1-hour ozone NAAQS and approved the 1-hour ozone maintenance plan (58 FR 47391).

Consistent with the CAA, ozone reductions are achieved by establishing NAAQS, such as the 1-hour and subsequent 8-hour ozone standard, and implementing the measures necessary to reduce ozone and its precursors. In the April 30, 2004, rulemaking entitled ''Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas with Deferred Effective Dates'' (69 FR 23858), EPA designated every county in the United States unclassifiable/attainment or nonattainment for the new 8-hour ozone standard. The Triad Area was designated as nonattainment with a deferred effective date as part of the Early Action Compact program. (For more information on the Early Action Compact—or EAC—Program, see, *http://www.epa.gov/ttn/naaqs/ozone/eac/index.htm#RMNotices*.) One year after the effective date of these designations, June 15, 2005, the 1-hour ozone standard was revoked in most areas. However, the 1-hour ozone standard was not revoked for previous 1-hour nonattainment areas that are currently 8-hour EAC areas, such as the Triad Area, even if those areas were designated as attainment for the 1-hour ozone standard prior to the 8-hour ozone designations.[2]

Currently, the Triad EAC Area is attaining the 8-hour ozone standard with a design value of 0.083 parts per million (ppm) using the latest three years of quality assured data for the years of 2005–2007. On February 6, 2008 (73 FR 6863), EPA proposed that 13 nonattainment areas, including the Triad Area, with deferred effective dates be designated attainment for the 8-hour ozone standard, because they have met all of the milestones of the EAC program and have demonstrated that they were in attainment of the 8-hour ozone NAAQS as of December 31, 2007. A final decision will be made on designations by April 15, 2008. EPA also proposed that one year after the

[1] The term ''subarea'' refers to the portion of the area, in a nonattainment or maintenance area, for which the MVEBs apply. In this case, the ''subareas'' are established at the county level so this indicates that the MVEBs cover individual counties and also indicates to transportation conformity implementers in this area that there are separate county-level MVEBs for each county in this area. *EPA's Companion Guidance for the July 1, 2004, Final Transportation Conformity Implementation in Multi-Jurisdictional Nonattainment and Maintenance Areas for Existing and New Air Quality Standards* explains more about the possible geographical extents of a MVEB, how these geographical areas are defined, and how transportation conformity is implemented in these different geographical areas.

[2] An EAC is an agreement between a State, local governments and EPA to implement measures not necessarily required by the Act in order to achieve cleaner air as soon as possible. The program was designed for areas that approach or monitor exceedances of the 8-hour ozone standard, but are in attainment for the 1-hour ozone standard. These areas continue to implement transportation conformity requirements related to the 1-hour ozone standard. See, *http://www.epa.gov/ttn/naaqs/ozone/eac/index.htm#RMNotices,* for further information.

effective date of these designations, the 1-hour ozone standard be revoked and the transportation conformity requirements no longer remain in effect.

On June 4, 2004, NCDENR submitted revisions to North Carolina's SIP to provide a 10-year update to the Triad Area's 1-hour ozone maintenance plan as required by section 175A(b) of the CAA. In addition to meeting the requirements of 175A(b), the revisions established subarea MVEBs for the Triad Area for the years 2004, 2007, 2010, 2012, and 2015. Some of these subarea MVEBs are currently being used by the transportation partners to demonstrate conformity, as approved in the September 20, 2004, rulemaking. The subarea MVEBs that are currently being used by transportation partners in the Triad Area are noted in the tables below:

TABLE 5.—DAVIDSON COUNTY MVEBS

[Tons/day]

	Current subarea MVEBs		
	2010	2012	2015
VOC	4.73	4.38	3.94
NO_X	7.79	6.36	4.72

TABLE 6.—DAVIE * COUNTY MVEBS

[Tons/day]

	Current subarea MVEBs		
	2010	2012	2015
VOC	0.01	0.01	0.01
NO_X	0.02	0.02	0.01

* The Davie County MVEBs are for the portion of Davie County in the maintenance area.

TABLE 7.—FORSYTH COUNTY MVEBS

[Tons/day]

	Current subarea MVEBs		
	2010	2012	2015
VOC	9.93	9.12	8.14
NO_X	14.49	11.83	8.79

TABLE 8.—GUILFORD COUNTY MVEBS

[Tons/day]

	Current subarea MVEBs		
	2010	2012	2015
VOC	14.32	13.10	11.66
NO_X	20.11	16.44	12.18

The tables above showing the currently approved subarea MVEBs for the Triad Area reflect the total on-road emissions for 2010, 2012 and 2015, plus an allocation from the available VOC and NO_X safety margins for each year. Pursuant to 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance area. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. These subarea MVEBs and the allocations from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled and new emission factor models. The allocated portion of the safety margins for the Triad Area that was approved in the September 20, 2004, rulemaking are as follows:

TABLE 9.—SAFETY MARGINS FOR THE TRIAD AREA

[Tons/day]

County		Safety margin allocations for VOC and NO_X		
		2010	2012	2015
Davidson	VOC	0.27	0.47	0.51
	NO_X	0.44	0.42	0.43
Davie	VOC	0.00	0.00	0.00
	NO_X	0.00	0.00	0.00
Forsyth	VOC	0.56	0.98	1.06
	NO_X	0.82	0.77	0.80
Guilford	VOC	0.81	1.40	1.52
	NO_X	1.14	1.08	1.11

The total remaining VOC safety margins after allocating a portion of the safety margin to the subarea MVEBs for the Triad Area are 26.59 tons per day (tpd) in 2010, 26.41 tpd in 2012, and 25.50 tpd in 2015. The total remaining NO_X safety margins after allocating a portion of the safety margin to the subarea MVEBs for the Triad Area is 58.61 tpd in 2010, 66.09 tpd in 2012, and 74.21 tpd in 2015. For more information on the total remaining safety margins, see the September 20, 2004, direct final rulemaking.

On February 4, 2008, the State of North Carolina, through NCDENR, submitted a request to revise the subarea MVEBs for the Triad 1-hour ozone maintenance area for the years 2010, 2012, and 2015. The new allocation of the safety margins to the subarea MVEBs is discussed in section IV of this direct final rulemaking.

Through the Triad Area's Interagency Consultation Group, which includes the North Carolina transportation and air quality partners, NCDENR identified a need for revised subarea MVEBs to allow for growth in the transportation sector. NCDENR, a partner of the Interagency Consultation Group, evaluated the option of revising the subarea MVEBs for the Triad Area and prepared a February 4, 2008, SIP revision to effectuate that option. The February 4, 2008, SIP revision was submitted to EPA for approval and requested a change to the subarea MVEBs by allocating a portion of the available safety margins to the subarea MVEBs. This allocation is discussed further in section of IV of this direct final rulemaking.

III. What Is the Effect of This Action?

The subarea MVEBs for the Triad Area are established for each metropolitan planning organization (MPO), and in some instances, counties that are ''donut areas.'' The conformity rule defines a donut area as the portion of a metropolitan nonattainment or maintenance area that is located outside an MPO's planning boundary (40 CFR 93.101). Donut areas are not considered isolated rural nonattainment and

maintenance areas under the transportation conformity rule.

The transportation conformity rule, specifically, 40 CFR 93.124(c) and (d), provide the regulatory mechanism for establishing and implementing subarea SIP MVEBs. In July 2004, EPA released a guidance document that provided additional details for implementing conformity in multi-jurisdictional areas, including establishing subarea SIP MVEBs in areas with multiple MPOs, entitled ''Companion Guidance for the July 1, 2004 Final Transportation Conformity Rule Conformity Implementation in Multi-Jurisdictional Nonattainment and Maintenance Areas for Existing and New Air Quality Standards,'' EPA 420A–B–04–012 (2004 Guidance). Although this guidance did not address the situation where subarea MVEBs are established for a donut area, such MVEBs may be established in a manner consistent with the requirements of the CAA that ensures that conformity determinations in the Triad Area will continue to meet federal conformity requirements.

Statutory and regulatory requirements regarding conformity may be met for the entire nonattainment or maintenance area if conformity is determined for every subarea SIP MVEBs at least every four years. Only by meeting all subarea SIP MVEBs can the SIP's overall purpose be met. CAA section 176(c) states that the federal government and MPOs cannot approve transportation activities unless they conform to the SIP and its SIP-approved MVEBs. *See also,* page 21 of the 2004 Guidance. In a nonattainment or maintenance area with more than one MPO, all MPOs must conform even if the SIP has established subarea MVEBs. EPA believes that this same legal standard applies in the case where the SIP establishes a subarea MVEBs for a donut area.

With regard to the February 4, 2008, revisions to the Triad 1-hour ozone maintenance area subarea MVEBs have been established for the Area's MPOs and donut areas. As a result, conformity determinations must be completed for all subarea MVEBs according to the statutory requirement to determine conformity at least every four years in areas with MPOs, transportation plans, and Transportation Improvement Programs (TIPs). MPOs must determine conformity to their respective transportation plans and TIPs every four years, and the interagency consultation process for the Triad Area should ensure that conformity is demonstrated for any subarea MVEBs for a donut area at least every four years as well. In the event that an MPO or donut area cannot demonstrate conformity on a four-year cycle, the other subareas cannot complete a conformity determination until all subareas conform. For further information regarding the conformity implications of not meeting subarea MVEBs, see pages 20–21 of the 2004 Guidance. The effect of this action will make new subarea MVEBs available to transportation partners in North Carolina.

IV. What Is EPA's Analysis of North Carolina's Subarea VOC and NO_X for the Triad Area?

In a June 4, 2004, SIP submittal, NCDENR, after interagency consultation with the transportation partners for the Triad Area, elected to develop county-level subarea MVEBs for VOC and NO_X. In addition to other years, North Carolina developed these MVEBs, for the years 2010, 2012, and 2015 of its maintenance plan. The aforementioned MVEBs reflect the total on-road emissions for 2010, 2012 and 2015, plus an allocation from the available VOC and NO_X safety margins for each year. Refer to the section II entitled ''What is the Background for EPA's Proposed Actions?'' of this rulemaking for further explanation of the safety margin. These MVEBs were approved into the SIP in the September 20, 2004, direct final rulemaking. On February 4, 2008, NCDENR submitted a SIP revision seeking to change the MVEBs that were approved in the September 20, 2004, SIP revision. The February 4, 2008, change is consistent with the CAA. The revised subarea VOC and NO_X MVEBs for the Triad Area are defined in the revised MVEBs tables, Tables 1 through 4, in section I of this direct final rulemaking.

North Carolina has chosen to allocate a portion of the available safety margin to the 2010, 2012 and 2015 subarea VOC and NO_X MVEBs. The following table identifies the amount of the safety margin that was allotted to the 2010, 2012 and 2015 VOC and NO_X subarea MVEBs per the February 4, 2008, submittal:

TABLE 10.—REVISED SAFETY MARGIN ALLOCATIONS FOR VOC AND NO_X

[Tons/day]

County		Revised safety margin allocations for VOC and NO_X		
		2010	2012	2015
Davidson	VOC	0.45	0.59	0.69
	NO_X	0.74	0.89	0.86
Davie	VOC	0.02	0.02	0.02
	NO_X	0.03	0.03	0.04
Forsyth	VOC	0.94	1.22	1.42
	NO_X	1.37	1.66	1.60
Guilford	VOC	1.35	1.76	2.03
	NO_X	1.90	2.30	2.21

The total remaining VOC safety margin after allocation of some of the safety margin to the subarea MVEBs for the Triad Area is 25.47 tpd in 2010, 25.67 tpd in 2012, and 24.43 tpd in 2015. The total remaining NO_X safety margin after allocation of some of the safety margin to the subarea MVEBs for the Triad Area is 56.97 tpd in 2010, 63.48 tpd in 2012, and 71.84 tpd in 2015.

Through this rulemaking, EPA is approving the revised 2010, 2012 and 2015 subarea MVEBs for VOC and NO_X for the Triad Area because EPA has determined that the Area maintains the 1-hour ozone standard with the emissions at the levels of the MVEBs and demonstrates that based upon expected emissions for all other source categories, the Triad Area will continue to maintain the 1-hour ozone standard.

As mentioned above, these MVEBs are subarea MVEBs for each individual

county in the Triad Area. Once the new subarea MVEBs for the Triad Area (the subject of this rulemaking) are approved they must be used for future conformity determinations.

V. Final Action

EPA is approving revisions to the 1-hour ozone maintenance plan for the Triad Area submitted by NCDENR on February 4, 2008. Tables 1–4, above, list the new MVEBs for VOC and NO_X being approved in this action. Table 10, above, lists the new available safety margins being approved in this action. The safety margin was reallocated as described in section IV of this action.

Within 24 months from the effective date of this direct final rule or the date of publication for the final rule for this action, the transportation partners will need to demonstrate conformity to the new subarea MVEBs pursuant to 40 CFR 93.104(e). See, 73 FR 4419 (January 24, 2008).

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 9, 2008 without further notice unless the Agency receives adverse comments by May 8, 2008.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 9, 2008 and no further action will be taken on the proposed rule.

VI. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See, section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 27, 2008.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart II—North Carolina

■ 2. Section 52.1770 (e) is amended by adding a new entry at the end of the table for ''1-Hour Ozone Maintenance plan revision for the Greensboro/Winston-Salem/High Point area'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register citation
* *	*	*	* *
1-Hour Ozone Maintenance plan revision for the Greensboro/Winston-Salem/High Point area (Davidson, Forsyth, and Guilford counties and a portion of Davie County).	February 4, 2008	April 8, 2008	[Insert first page of publication].

[FR Doc. E8–7186 Filed 4–7–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2008–MD–0209; FRL–8552–5]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; State of Maryland; Control of Large Municipal Waste Combustor (LMWC) Emissions From Existing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the Maryland Department of the Environment (MDE) large municipal waste combustor plan (the plan) revision for implementing emission guideline (EG) amendments promulgated on May 10, 2006 by EPA under the Clean Air Act (the Act). The plan revision establishes revised emission limits, monitoring, and recordkeeping requirements for existing LMWC units with a unit capacity greater than 250 tons per day (TPD). An existing LMWC unit is one for which construction commenced on or before September 20, 1994.

DATES: This rule is effective June 9, 2008 without further notice, unless EPA receives adverse written comment by May 8, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0209 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: http://wilkie.walter@epa.gov*.

C. *Mail:* EPA—R03 OAR–2008 MD–0209, Walter Wilkie, Chief, Air Quality Analysis Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2008–MD–0209. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes 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 *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 129(a)(5) of the Clean Air Act (the Act) requires EPA to conduct a 5-year review of the solid waste incinerator new source performance standards (NSPS) and emission guidelines (EG) and revise both, as appropriate. Accordingly, in the May 10, 2006 edition of the **Federal Register**, EPA promulgated revised LMWC rules under sections 111 and 129 of the Act. EG for existing affected facilities are not federally enforceable. However, section 129(b)(2) of the Act requires States to submit to EPA for approval State Plans and revisions that implement and enforce the amended EG, in this case, 40 CFR part 60, subpart Cb. State Plans and revisions must be at least as protective as the EG, and become federally enforceable as a section 111(d)/129 plan revision upon approval by EPA. The procedures for adoption and submittal of State Plans and revisions are codified in 40 CFR Part 60, subpart B.

II. Review of Maryland's MWC Plan Revision

The required Maryland 111(d)/129 plan revision (#07–15) was submitted to EPA on October 24, 2007. EPA has reviewed the plan revision for existing LMWC units in the context of the requirements of 40 CFR part 60, and subparts B and Cb, as amended. State plans must include the following essential elements: (1) Identification of legal authority, (2) identification of mechanism for implementation, (3) inventory of affected facilities, (4) emissions inventory, (5) emissions limits, (6) compliance schedules, (7) testing, monitoring, recordkeeping, and reporting, (8) public hearing records, and (9) annual state progress reports on facility compliance.

A. Identification of Legal Authority

Title 40 CFR 60.26 requires the plan to demonstrate that the State has legal authority to adopt and implement the emission standards and compliance schedules. The initial LMWC plan submittal demonstrates that the MDE has the legal authority to adopt and implement a plan.

B. Identification of Enforceable State Mechanisms for Implementing the Plan

The subpart B provision at 40 CFR 60.24(a) requires that state plans include emissions standards, defined in 40 CFR 60.21(f) as ''* * * a legally enforceable regulation setting forth an allowable rate of emissions into the atmosphere, or prescribing equipment specifications for control of air pollution emissions.'' The MDE Code of Maryland Regulations (COMAR) for LMWC units has been amended to incorporate revisions to subpart Cb. These amendments to Regulations .01, .02 and .08 under COMAR 26.11.08, Control of Incinerators, were adopted September 12, 2007 and became effective on October 8, 2007. Other applicable and effective supporting air program rules were identified in EPA's initial plan approval. (64 FR 19919). These rules collectively met the requirement of 40 CFR 60.24(a) to have a legally enforceable emission standard.

C. Inventory of Affected MWC Units

Title 40 CFR 60.25(a) requires the plan to include a complete source inventory of all LMWC units. The MDE has identified two (2) affected facilities—Wheelabrator Baltimore, L.P., and Montgomery County Resource Recovery Facility. An unknown affected facility is not exempt from applicable 111(d)/129 requirements because it is not listed in the source inventory.

D. Inventory of Emissions From Affected MWC Units

Title 40 CFR 60.25(a) requires that the plan include an emissions inventory that estimates emissions of the pollutant regulated by the EG. Emissions from MWC units contain organics (dioxin/furans), metals (cadmium, lead, mercury, particulate matter, opacity), and acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides). For each affected MWC facility, the MDE plan revision contains MWC unit emissions rates for each regulated pollutant based on 2006 and 2007 stack test and continuous emission monitoring data. This meets the emission inventory requirements of 40 CFR 60.25(a).

E. Emissions Limitations for MWC Units

Title 40 CFR 60.24(c) specifies that the State plan or revision must include emission standards that are no less stringent than the EG, except as specified in 40 CFR 60.24(f) which allows for less stringent emission limitations on a case-by-case basis if certain conditions are met. This exception clause is superseded by section 129(b)(2) of the Act which requires that state plans be ''at least as protective'' as the EG. A review of COMAR 26.11.08.08 emissions limitations shows that all are ''at least as protective'' as those in the EG, subpart Cb, as amended.

F. Compliance Schedules

Under 40 CFR 60.24(c) and (e), a state plan must include an expeditious compliance schedule that owners and operators of affected MWC units must meet in order to comply with the requirements of the plan. The plan revision and related COMAR 26.11.08.08 rule amendments contain a compliance schedule, consistent with subpart Cb requirements, with specific increments of progress for meeting the revised and more stringent emission limitations. § 60.24(e)(1) requires that compliance schedules extending more than 12 months from the date required for submittal of the plan must include legally enforceable increments of progress. The required state plan revision was due at EPA on May 10, 2007. Accordingly, the submitted plan revision contains increments of progress which require full facility compliance by a date no later than April 28, 2009, assuming an extensive emission control system upgrade is not required. This requirement does not preclude an affected facility from demonstrating full compliance prior to April 28, 2009. In the case where an extensive emission control system upgrade is required, the facility's first increment of progress is to complete a control system and cost analysis by April 1, 2008; if that is the case, full compliance is then required by March 10, 2011. The state plan revision meets applicable Federal requirements.

G. Testing, Monitoring, Recordkeeping, and Reporting Requirements

The provisions of subpart B, 40 CFR 60.24(b) and 60.25(b), stipulate facility testing, monitoring recordkeeping and reporting requirements for state plans. COMAR 26.11.08.08 has also been amended to be consistent with EPA's May 10, 2006 EG amendments, subpart Cb, relating to source testing, monitoring, recordkeeping and reporting requirements.

H. A Record of Public Hearing on the State Plan Revision

A public hearing on the plan revision was held August 8, 2007. Applicable portions of COMAR 26.11.08.01, .02, and .08 amendments became effective on October 8, 2007. The state provided evidence of complying with public notice and other hearing requirements, including a record of public comments received. The MDE has met the requirement of 40 CFR 60.23 for a public hearing.

I. Annual State Progress Reports to EPA

The MDE will submit to EPA on an annual basis a report which details the progress in the enforcement of the plan in accordance with 40 CFR 60.25. Accordingly, the MDE will submit annual reports on progress in plan enforcement to EPA on an annual (calendar) basis, commencing with the first full report period after plan revision approval.

III. Final Action

Based upon the rationale discussed above and in further detail in the technical support document (TSD) associated with this action, EPA is approving the Maryland plan revision and related COMAR 26.11.08 Regulation, Control of Incinerators, amendments to .01, .02, and .08, as adopted September 12, 2007. This approval excludes certain authorities retained by EPA, and as stated in 40 CFR 60.30b(b) and 60.50b(n). As required by 40 CFR 60.28(c), any revisions to the Maryland plan or supporting regulations will not be considered part of the applicable plan until submitted by the MDE in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, Subpart B, requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action simply reflects already existing Federal requirement for state air pollution control agencies and existing LMWC units that are subject to the provisions of 40 CFR part 60, subpart Cb and related subpart Eb. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the section 111(d)/129 plan revision should relevant adverse or critical comments be filed. This rule will be effective June 9, 2008 without further notice unless EPA receives adverse comments by May 8, 2008. If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the 111(d)/129 plan is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *June 9, 2008*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: March 31, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for Part 62 continues to read as follows:

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

Subpart V—Maryland

■ 2. Section 62.5110 is amended by redesignating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 62.5110 Identification of plan.

* * * * *

■ (b) On October 24, 2007, Maryland submitted a revised State plan (Phase II) and related COMAR 26.11.08.01, .02, and .08 amendments as required by 40 CFR part 60, subpart Cb, amended May 10, 2006.

■ 3. Section 62.5112 is amended by redesignating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 62.5112 Effective date.

* * * * *

■ (b) The plan revision (Phase II) is effective June 9, 2008.

[FR Doc. E8–7347 Filed 4–7–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63, 264 and 266

[EPA–HQ–OAR–2004–0022; FRL–8549–4]

RIN 2050–AG35

NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing amendments to the national emission standards for hazardous air pollutants (NESHAP) for hazardous waste combustors, which

EPA promulgated on October 12, 2005. The amendments to the October 2005 final rule clarify several compliance and monitoring provisions, and also correct several omissions and typographical errors in the final rule. We are finalizing the amendments to facilitate compliance and improve understanding of the final rule requirements. This rule does not address issues for which petitioners sought reconsideration. Nor does it address issues raised in EPA's comment solicitation of September 27, 2007.

DATES: The final rule is effective on April 8, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2004–0022. All documents in the docket are listed on *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the HQ EPA Docket Center, Docket ID No. EPA–HQ–OAR–2004–0022, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The HQ EPA Docket Center telephone number is (202) 566–1742. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Frank Behan at (703) 308–8476, or *behan.frank@epa.gov*, Office of Solid Waste (MC: 5302P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Entities Potentially Affected by This Rule. Categories and entities potentially affected by this rule include:

Category	NAICS code [a]	Potentially affected entities
Petroleum and coal products manufacturing	324	Any entity that combusts hazardous waste as defined in the final rule.
Chemical manufacturing	325	
Cement and concrete product manufacturing	3273	
Other nonmetallic mineral product manufacturing	3279	
Waste treatment and disposal	5622	
Remediation and other waste management services	5629	

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be impacted by this rule. This table lists examples of the types of entities EPA is now aware could potentially be regulated by this action. Other types of entities not listed could also be affected. To determine whether your facility, company, business, organization, etc., is affected by this rule, you should examine the applicability criteria in 40 CFR 63.1200. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

How Do I Obtain a Copy of This Document and Other Related Information? In addition to being available in the docket, an electronic copy of today's rule will also be available on the on the World Wide Web. Following the Administrator's signature, a copy of this document may be posted at *http://www.epa.gov/hwcmact*. This Web site also provides other information related to the NESHAP for hazardous waste combustors including the NESHAP issued on October 12, 2005 (70 FR 59402).

Judicial Review. Under section 307(b)(1) of the Clean Air Act, judicial review of the final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by June 9, 2008. Section 307(d)(7)(B) of the CAA provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final action may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Organization of This Document. The information presented in this preamble is organized as follows:

I. Background
A. What Is the Source of Authority for the Development of NESHAP?
B. How Did the Public Participate in Developing the Amendments to the Final Rule?
II. Summary of the Final Amendments
A. Proposed Amendments for Which No Adverse Comments Were Received
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1. Calculating Rolling Averages
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3. Corrections to the Notice of Intent To Comply (NIC) Provisions for New Units
C. Corrections to the Startup, Shutdown, and Malfunction Plan Provisions
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E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review

I. Background

A. What Is the Source of Authority for the Development of NESHAP?

Section 112(c) of the Clean Air Act requires EPA to list categories and subcategories of major sources and area sources of hazardous air pollutants (HAP) and to establish NESHAP for the listed source categories and subcategories. Hazardous waste combustors include incinerators, cement kilns, lightweight aggregate kilns, boilers, and hydrochloric acid production furnaces that burn hazardous waste. EPA's initial list of categories of major and area sources of HAP was published on July 16, 1992 (57 FR 31576). Hazardous waste incinerators, Portland cement manufacturing, clay products manufacturing (including lightweight aggregate kilns), industrial/commercial/institutional boilers and process heaters, and hydrochloric acid production furnaces were among the listed categories of sources. Major sources of HAP are those sources that have the potential to emit at least 10 tons per year of any one HAP or 25 tons per year of any combination of HAP.

B. How Did the Public Participate in Developing the Amendments to the Final Rule?

The final rule was published on October 12, 2005 (70 FR 59402) and codified in 40 CFR part 63, subpart EEE. Following publication of the final rule, two industry trade associations identified a number of typographical errors and suggested several potential compliance and monitoring amendments and clarifications to the rule.[1] On September 6, 2006, we published proposed amendments (71 FR at 52639) to address these issues and sought public comment on the proposed amendments.[2] EPA received comments from five entities. Today's action presents EPA's responses to those comments and promulgates amendments to Subpart EEE of 40 CFR part 63.

II. Summary of the Final Amendments

In today's notice, we are announcing our final action on several amendments to Subpart EEE of 40 CFR part 63. The amendments revise several compliance and monitoring provisions in response to questions and issues raised by entities affected by the rule. The revised provisions are effective immediately, and today's final rule does not change the October 14, 2008 compliance date established by the October 12, 2005 final rule. See also Section III (Time Lines for compliance activities) in today's action. Sources can readily comply with the revised provisions promulgated today within the compliance time frames established by the October 12, 2005 final rule. See § 63.1206(a).

A. Proposed Amendments for Which No Adverse Comments Were Received

In the September 6, 2006 proposal, we proposed several corrections and clarifications to the NESHAP for hazardous waste combustors. 71 FR at 52639–642, 52645–646. We received no adverse comments on the majority of the corrections and clarifications (see Table 1 below). Therefore, we are promulgating those provisions, as proposed, without further discussion.[3] The reader is referred to the September 2006 proposed rule for background on these changes.

TABLE 1.—SUMMARY OF AMENDMENTS FOR WHICH NO ADVERSE COMMENTS WERE RECEIVED

Preamble section in September 2006 proposed rule	Subject of proposed amendment	Code of Federal Register (CFR) section(s) amended
V.A	Sunset Provision for the Interim Standards	63.1203(e), 63.1204(i), 63.1205(e).
V.B	Operating Parameter Limits for Sources with Fabric Filters	63.1206(c)(9).
V.C	Confirmatory Performance Testing Not Required for Sources That Are Not Subject to a Numerical Dioxin/Furan Emission Standard.	63.1207(b)(3)(vi).
V.D	Periodic Performance Test for Phase I Sources	63.1207(d).
V.E	Performance Test Waiver for Sources Subject to Hazardous Waste Thermal Concentration Limits.	63.1207(m).
V.F	Averaging Method When Calculating 12-Hour Rolling Average Thermal Concentration Limits.	63.1209(n)(2)(iii).
V.I	Timing of the Periodic Review of Eligibility for the Health-Based Compliance Alternatives for Total Chlorine.	63.1215(h)(2)(i).
V.K	Mercury Standards for Cement Kilns	63.1220(a)(2) and (b)(2), 63.1209(l)(1)(iii).
V.L	Facilities Operating Under RCRA Interim Status	None. Interpretation of existing regulations (see 71 FR at 52642).
VII.A	Miscellaneous Typographical Errors	63.1206(a)(2) heading, 63.1206(a)(2)(ii)(A), 63.1206(b)(16), 63.1210(b), 63.1215(a)(2), 63.1215(b)(2), 63.1215(b)(3), 63.1215(b)(6)(ii)(C), 63.1215(f)(5)(ii)(A), 63.1217(a)(6)(ii), 63.1217(b)(6)(ii).

[1] See docket items EPA–HQ–OAR–2004–0022–0551 and 0552.

[2] In addition to soliciting comment on the rule amendments discussed in this action, EPA also requested comment on other issues in the September 6, 2006 proposed rule. The other issues related to our response to four petitions for reconsideration that were submitted to the Administrator pursuant to section 307(d)(7)(B) of the Clean Air Act. EPA's final response to the petitions for reconsideration is not included in today's action. See Sections II, III, and IV of the September 2006 notice for additional information on the reconsideration proceedings. Nor does this final rule address any of the issues raised by EPA's solicitation of comment published on September 27, 2007 (72 FR 54875).

[3] Please note, however, that we have revised proposed § 63.1207(d)(2), which prescribes the schedule for confirmatory performance testing, to conform with existing § 63.1207(b)(3) to clarify further that confirmatory performance testing is not required for sources that are not subject to a numerical D/F emission standard: solid fuel boilers and hydrochloric acid production furnaces; lightweight aggregate kilns that are not subject to a numerical dioxin/furan emission standard under § 63.1221; and liquid fuel boilers that are not subject to a numerical dioxin/furan emission standard under § 63.1217.

TABLE 1.—SUMMARY OF AMENDMENTS FOR WHICH NO ADVERSE COMMENTS WERE RECEIVED—Continued

Preamble section in September 2006 proposed rule	Subject of proposed amendment	Code of Federal Register (CFR) section(s) amended
VII.B	Citation Corrections	63.1206(b)(14)(iv), 63.1207(g)(2)(i) and (ii), 63.1209(n)(2)(vii), 63.1215(a)(1)(i), 264.340(b), 266.100(b)(3).
VII.C	Corrections to the NIC Provisions for New Units	63.1212(b)(1) and (b)(3).
VII.D	Clarification of the Applicability of Title V Permit Requirements to Phase 2 Area Sources.	None. Interpretation of existing regulations (see 71 FR at 52646).

We also received no adverse comment on the proposed amendments described in Section V.G (Calculating Rolling Averages for Averaging Periods in Excess of 12 Hours) of the September 6, 2006 preamble citation. That discussion described our intent to simplify the monitoring requirements for sources that select mercury or semivolatile metal feedrate limits averaged over periods greater than 12 hours. As described in the preamble, this would require identical changes to four paragraphs of the regulation: §§ 63.1209(n)(2)(v)(A)(*2*)(*iv*), 63.1209(n)(2)(v)(A)(*3*)(*v*), 63.1209(l)(1)(ii)(B)(*5*), and 63.1209(l)(1)(ii)(C)(*5*). However, corresponding regulatory changes to the latter three paragraphs were inadvertently omitted from the September 2006 proposed rule. In today's rule, we are correcting this oversight by promulgating the language proposed for § 63.1209(n)(2)(v)(A)(*2*)(*iv*) in all four paragraphs.

B. Proposed Amendments for Which Comments Were Received

1. Calculating Rolling Averages

a. *Summary of the Final Action.* We are revising §§ 63.1209(n)(2)(v)(B)(*1*), 63.1209(n)(2)(v)(B)(*2*), and 63.1209(o)(1)(ii)(A)(*3*) as proposed on September 6, 2006. 71 FR at 52640. These changes are intended to clarify that data for demonstrating compliance with feed rate limits of up to a 12-hour rolling average must be updated each minute. In addition, § 63.1209(n)(2)(v)(B)(*1*)(*i*) is modified to confirm that the chromium feed rate limit for boilers burning liquid hazardous waste with a heating value of 10,000 Btu/lb or greater is a 12-hour rolling average limit.

b. *What Are the Responses to Major Comments?*

Comment: We received two comments on this topic. One supported the changes as proposed. The other commenter objected to updating the 12-hour average every minute rather than every hour, arguing that this complicates data management and could require increased data storage.

Response: We believe that complications to data management or increases in data storage requirements, if any, are negligible. Phase I sources—incinerators, cement kilns, and lightweight aggregate kilns—have been complying with 12-hour averages updated each minute for several years without significant problems. Furthermore, data storage is not measurably affected. These continuous monitors are required to record a data point at least once each minute, regardless of the whether the rolling average value for determining compliance is updated each minute or each hour. Consequently, the amount of recorded data is not significantly affected under either approach to calculating the rolling average.

Phase I sources have been required to update their 12-hour rolling average feed rate data each minute ever since the hazardous waste combustor MACT rule was first promulgated in 1999. A ''rolling average'' was defined in that rule as ''the average of all one-minute averages over the averaging period.'' That definition has remained the same through the interim standards (for Phase I sources) and the replacement standards. We have consistently interpreted the definition to require that a new rolling average be calculated each minute. See, for example, the preamble discussion in the September 30, 1999 rule which says, while discussing how to calculate rolling averages upon initial startup, ''Given that the one-hour, and 12-hour rolling averages for limits on various parameters must be updated each minute * * *'' 64 FR at 52924.

In the 2004 replacement standards proposed rule, we first introduced the concept of hourly updates to rolling averages, but only in the context of monitoring compliance with annual rolling average feed rate limits. See 69 FR at 21312. At no time did we discuss or propose any change to the long-standing requirement that rolling averages of 12 hours or less be updated each minute. In fact, we reiterated the requirement for one-minute updates in discussing how compliance with the 12-hour thermal feed rate limits would be monitored. In that discussion we said that ''For compliance, you would continuously monitor the feed rate of hazardous waste on a 12-hour rolling average updated each minute or, for standards based on normal emissions, on an annual rolling average updated each hour.'' *Id.* at 21312.

Given that we have consistently required rolling averages of 12 hours or less to be updated each minute and we have never discussed or proposed any changes to that approach, we find ample evidence that the addition of hourly updates for these parameters in the final replacement standards were, as we asserted in the proposed rule, inadvertent. Furthermore, we find no support for the commenter's claim that data management or data storage requirements are significantly affected under either approach. Therefore, we have removed the references to hourly updates, as proposed.

2. Expressing Particulate Matter Standards Using the International System of Units

a. *Summary of the Final Action.* We proposed to revise the particulate matter standards expressed in English units (gr/dscf) in §§ 63.1216 through 63.1221 by converting and expressing the standards using the International System of Units (SI). 71 FR at 52641. However, after considering the comments received in response to the proposed rule, we are not revising the standards as proposed. Thus, we are retaining the format of the particulate matter standards as promulgated in the October 12, 2005 final rule.

b. *What Are the Responses to Major Comments?*

Comment: We received three comments on this topic. One supported revising the particulate matter standards by expressing all particulate matter standards in SI units as proposed. Two other commenters opposed the proposed revisions because converting a standard from gr/dscf to mg/dscm and rounding to two significant figures can

increase (and apparently does for at least one affected source) the stringency of the standard.

Response: Given that the proposed conversion to SI units can increase the stringency of the promulgated standard in some instances, we are not revising the particulate matter standards as proposed. We do not believe the proposed revisions are appropriate because a source currently complying with the standard expressed in English units could find itself suddenly out of compliance if the standard were converted to SI units, after rounding the result to two significant figures. We believe this would be an inappropriate outcome for this ''housekeeping'' amendment.

3. Corrections to the Notice of Intent To Comply (NIC) Provisions for New Units

a. *Summary of the Final Action.* We proposed several corrections to the NIC regulatory provisions for new units to accurately reflect the time frames for holding the informal public meeting and submitting a final NIC. See 71 FR at 52645–646. Specifically, we made corrections to the time line (Figure 2; 71 FR at 52644), and proposed to revise § 63.1210(b)(3) and (c)(1), which are the core requirements for the informal public meeting and final NIC. We explained that it was our intent to clarify that existing units' NIC deadlines were based upon the effective date of the rule (e.g., ''* * * no later than one year following the effective date * * *''), whereas new units'' NIC deadlines were based upon a set number of days between NIC compliance activities (e.g., ''* * * or 60 days following the informal public meeting''). This was necessary because the final rule effective date has no bearing on new units. We further explained that since the public meetings for the NIC and the RCRA pre-application are to occur simultaneously for new units, we anticipate new units will plan accordingly and work with their permitting authorities to determine the most suitable time to begin the NIC compliance process.

Today we are amending § 63.1210(b)(3) and (c)(1) to accurately reflect the time frames for holding the informal public meeting and submitting a final NIC for new units. However, the amendments are not finalized as proposed, but rather were revised to reflect a comment we received (see below). We are now further subdividing the paragraphs to explicitly differentiate between ''existing units'' and ''new units.'' Also, to further clarify that new units are subject to the same NIC requirements, we have added a new paragraph (b)(5) to § 63.1212 with respect to the final NIC. While it essentially mirrors § 63.1210(b)(3), we believe it is important to clearly indicate all applicable NIC provisions for new units in § 63.1212.

b. *What Are the Responses to Major Comments?*

Comment: One comment was received in response to the proposed amendments. The commenter noted that the proposed § 63.1210(c)(1) language retains the 10 month deadline, but also requires that the meeting must be held no later than 30 days following the notice. The 30 day advance notice language of § 63.1210(c)(3) was retained. This puts the facility in a position of having to issue the public notice precisely 30 days before the public meeting (i.e., facilities have two 30 day deadlines, one working backward from the meeting date and one working forward from the notice date). The commenter suggested that the requirements for new units and existing units be presented as two separate paragraphs to better represent the timelines for each.

Response: We agree with the commenter. The few words added to § 63.1210(c)(1) do not clearly differentiate between existing and new units' NIC deadlines. The reference in § 63.1210(c)(1) to the ''* * * no later than 10 months after the effective date * * *'' was intended only for existing units and the proposed reference to ''* * * or 30 days following notice * * *'' was intended only for new units. The way the paragraph reads gives the appearance that both references may be applicable to all units. Therefore, if one reads the 30 day reference in § 63.1210(c)(1) to also apply to existing units, along with the 30 day reference which was retained in § 63.1210(c)(3), it creates the situation which the commenter correctly identifies.

We have subdivided § 63.1210(c)(1) (as well as § 63.1210(b)(3)) to clearly designate applicability for existing and new units as the commenter suggests. Section 63.1210(c)(1) is revised to require the informal public meeting for new units to be held *no earlier than* 30 days following notice of the informal meeting, as opposed to *no later than* 30 days following the notice. Also, we have revised § 63.1212(b)(4) to state that the informal public meeting must be held *no earlier than* 30 days following notice of the meeting, so that it is consistent with § 63.1210(c)(1). Finally, as noted above, a new paragraph (b)(5) is added to § 63.1212 regarding submission of the final NIC.

C. Corrections to the Startup, Shutdown, and Malfunction Plan Provisions

This action also corrects a ministerial error by EPA that lead to inadvertent revision of § 63.1206(c)(2)(v). In a 2006 final rule amending the Part 63 general provisions, EPA made conforming changes to many individual MACT standards that merely incorporate the startup, shutdown and malfunction (SSM) requirements of the general provisions. 71 FR 20446 (April 20, 2006). In doing so, EPA inadvertently revised the SSM provisions tailored specifically for HWC facilities. Today, we are correcting that inadvertent error. Accordingly, we are revising § 63.1206(c)(2)(v)(A)(*2*) and (c)(2)(v)(B)(*4*) so that they read as they did before the April 20, 2006 revisions.

D. Time Lines

In the September 2006 proposed rule, we noted several errors in the time lines published in the October 12, 2005 final rule. See 70 FR 59524–525 and 71 FR at 52642–644. Consequently, we revised the time lines, Figures 1 and 2, to reflect the correct dates and time frames associated with compliance activities for Phase 1 (i.e., incinerators, cement kilns, and lightweight aggregate kilns) and Phase 2 sources (i.e., liquid and solid fuel boilers and hydrochloric acid production furnaces). In addition, we discussed the time line revisions and why the changes were necessary, as well as providing some clarifying remarks.

We did not receive any public comments on the revised time lines that were published in the proposed rule. For the reader's convenience, we are publishing the time lines again in today's final rule. Please refer to the proposal for the accompanying discussion of the time lines. 71 FR at 52642–643.

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Figure 1. Time Line for Phase 1 Replacement Standards and Phase 2 Standards – Existing Sources

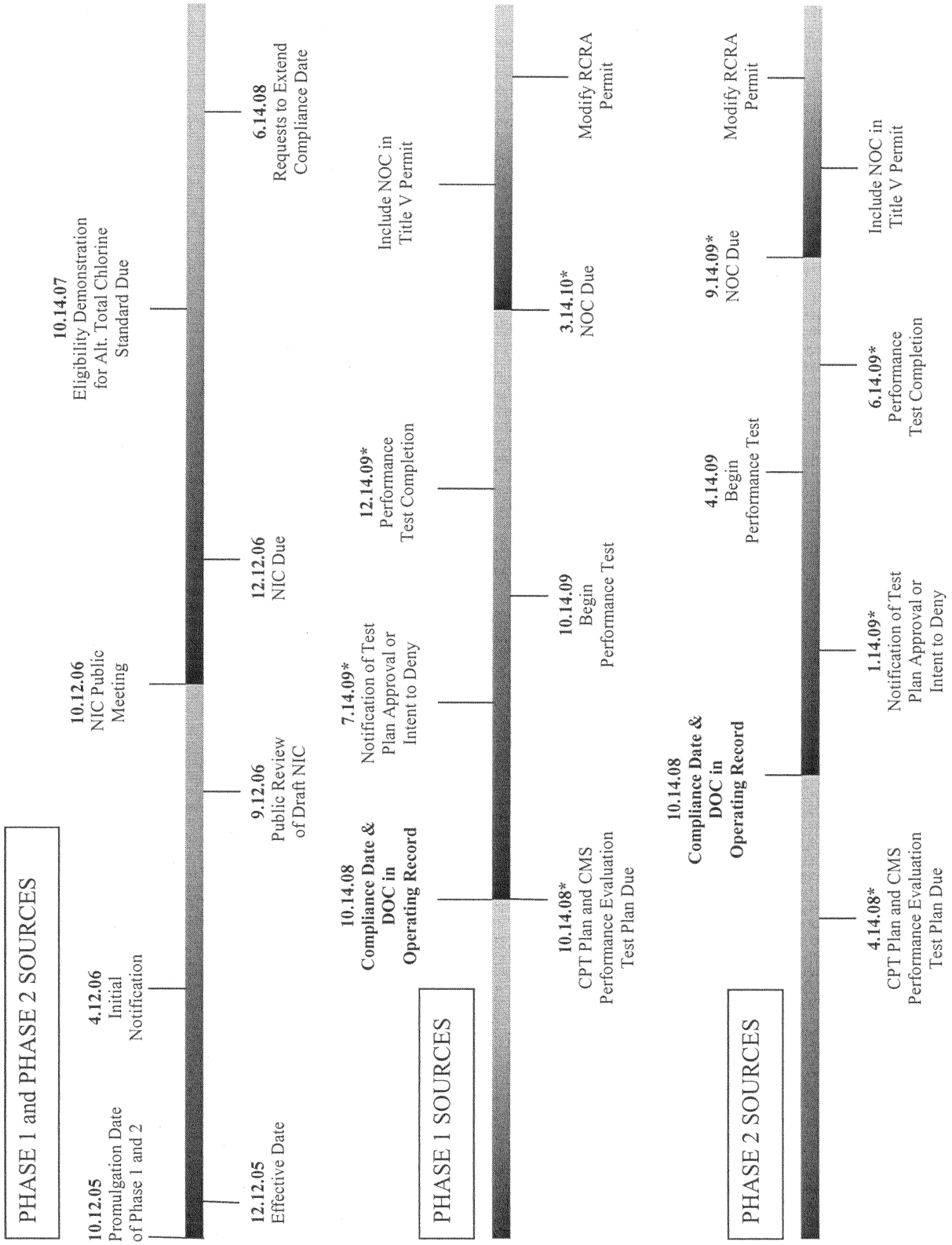
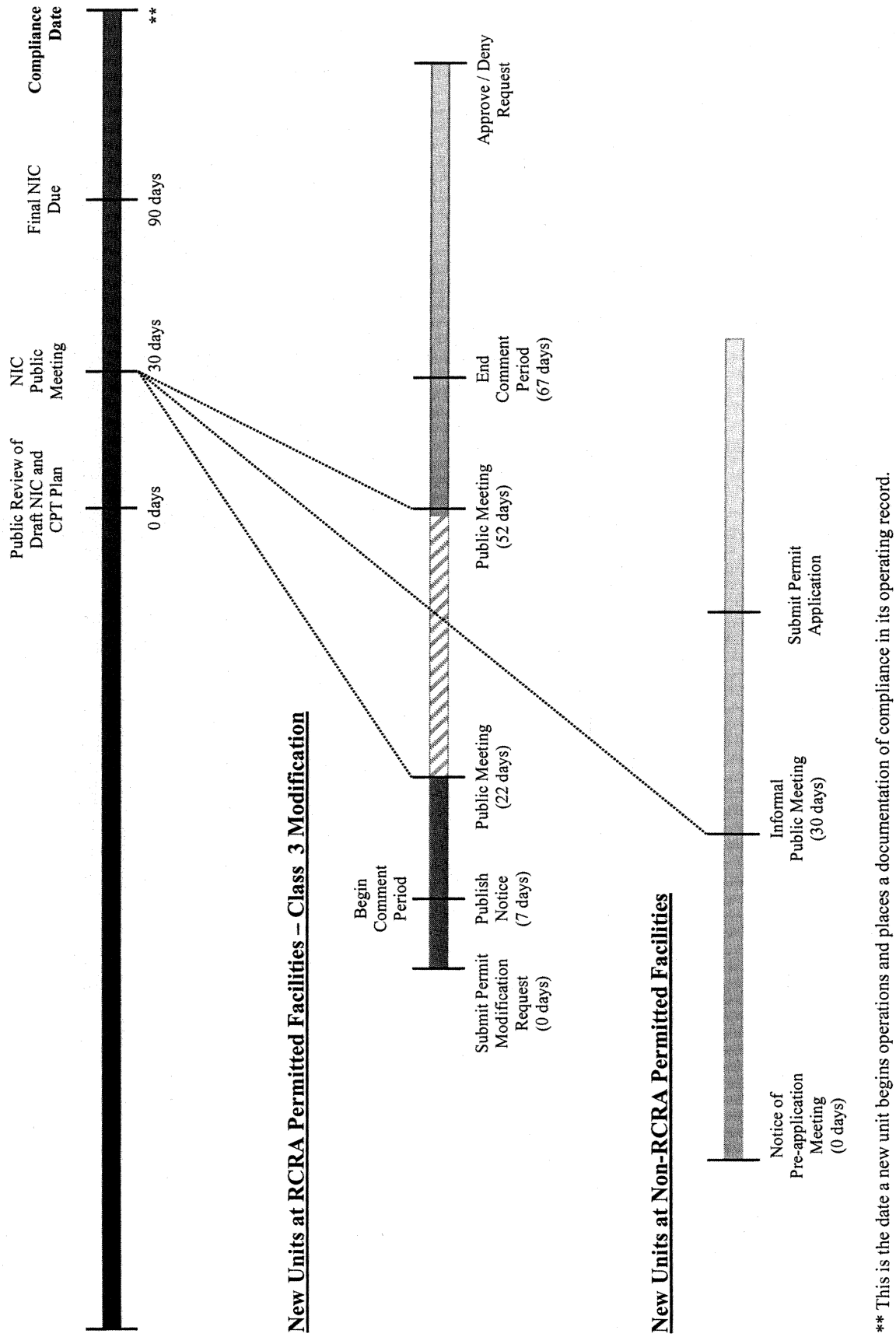


Figure 2. NIC and CPT Plan Time Line - New Units



** This is the date a new unit begins operations and places a documentation of compliance in its operating record.

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III. Impacts of the Final Rule

A. What facilities are affected by the final amendments?

A description of the affected source categories is discussed in the April 20, 2004 proposed rule. 69 FR at 21207–09. In the October 12, 2005 final rule, we estimated that there are a total of 267 sources subject to the rule requirements, including 116 boilers (104 liquid fuel boilers and 12 solid fuel boilers), 92 on-site incinerators, 25 cement kilns, 15 commercial incinerators, 9 lightweight aggregate kilns, and 10 hydrochloric acid production furnaces. 70 FR at 59530. While we are aware of several changes to the universe of operating hazardous waste combustors, these estimates remain a reasonable representation of existing operating sources.[4]

B. What are the impacts of the final rule?

The rule amendments do not change any of the impacts presented in the preamble to the October 12, 2005 final rule. See 70 FR at 59529–35.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden because there is no additional burden on affected sources as a result of the final rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (see 40 CFR part 9) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050–0171, EPA ICR number 1773.08. A copy of the OMB approved Information Collection Request (ICR) may be obtained by writing to: Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1700.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. As discussed in the October 12, 2005 final rule (which today's final rule amends), we determined that hazardous waste combustion facilities are not owned by small governmental jurisdictions or nonprofit organizations. 70 FR at 59538. Therefore, in that rule only small businesses were analyzed for small entity impacts (a small entity was defined either by the number of employees or by the dollar amount of sales). We found that few—a total of eight out of 145 facilities—of the sources affected by the October 2005 rule were owned by small businesses. Finally, our analysis indicated that none of these facilities are likely to incur annualized compliance costs greater than one percent of gross annual corporate revenues. Cost impacts were found to range from less than 0.01 percent to 0.46 percent of annual gross corporate revenues. 70 FR at 59538.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. We note that today's final rule does not alter the number or type of small businesses that were discussed in the October 12, 2005 final rule. Additionally today's rule does not have any significant new regulatory requirements as compared to the requirements discussed in the October 12, 2005 final rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially

[4] Given the small size of the lightweight aggregate kiln category, it is worth mentioning that the Solite Cascade plant in Virginia has ceased operations. Prior to closure, this plant operated four kiln sources. See also 70 FR at 59426.

affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This is because today's final rule does not add new requirements that would increase the costs of the original NESHAP for hazardous waste combustors. The NESHAP was published on September 30, 1999, and October 12, 2005, and had aggregated annualized social costs between $50 to $63 million (64 FR at 53022) and $22.6 million (70 FR at 59538), respectively. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this final rule does not significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, this final rule is not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA 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.''

This final rule does not have federalism implications. The final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because State and local governments do not own or operate any sources that would be subject to the requirements of the final rule and as such would not bear substantial costs of effects. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175, because tribal governments do not own or operate any sources subject to today's action. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under EO 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is based solely on technology performance and not on health or safety risks. Furthermore, this final rule is not considered ''economically significant'' as defined under EO 12866.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action involves technical standards. During the development of the final rule, EPA searched for voluntary consensus standards that might be applicable. EPA adopted the following standards as practical alternatives to specified EPA test methods in the final rule: (1) American Society for Testing and Materials (ASTM) D6735–01, ''Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources—Impinger Method,'' and (2) American Society of Mechanical Engineers (ASME) standard QHO–1–2004, ''Standard for the Qualification and Certification of Hazardous Waste Incinerator Operators.''

Section 63.1208 lists the test methods to determine compliance with the emission standards in the final rule. Under § 63.7(f) of the general provisions, a source may apply to EPA for permission to use alternative test methods in place of any required testing method, performance specification, or procedure.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority

populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the provisions contained within do not affect the level of protection to human health of the environment. The final amendments to the hazardous waste combustor NESHAP (40 CFR part 63 subpart EEE) are comprised of clarifications and revisions to current compliance and monitoring provisions that do not affect the current level of control at facilities subject to these rules.

K. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on April 8, 2008.

List of Subjects

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: March 26, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

■ 2. Section 63.1203 is amended by adding paragraph (e) to read as follows:

§ 63.1203 What are the standards for hazardous waste incinerators that are effective until compliance with the standards under § 63.1219?

* * * * *

(e) The provisions of this section no longer apply after any of the following dates, whichever occurs first:

(1) The date that your source begins to comply with § 63.1219 by placing a Documentation of Compliance in the operating record pursuant to § 63.1211(c);

(2) The date that your source begins to comply with § 63.1219 by submitting a Notification of Compliance pursuant to § 63.1210(b); or

(3) The date for your source to comply with § 63.1219 pursuant to § 63.1206 and any extensions granted there under.

■ 3. Section 63.1204 is amended by adding paragraph (i) to read as follows:

§ 63.1204 What are the standards for hazardous waste burning cement kilns that are effective until compliance with the standards under § 63.1220?

* * * * *

(i) The provisions of this section no longer apply after any of the following dates, whichever occurs first:

(1) The date that your source begins to comply with § 63.1220 by placing a Documentation of Compliance in the operating record pursuant to § 63.1211(c);

(2) The date that your source begins to comply with § 63.1220 by submitting a Notification of Compliance pursuant to § 63.1210(b); or

(3) The date for your source to comply with § 63.1220 pursuant to § 63.1206 and any extensions granted there under.

■ 4. Section 63.1205 is amended by adding paragraph (e) to read as follows:

§ 63.1205 What are the standards for hazardous waste burning lightweight aggregate kilns that are effective until compliance with the standards under § 63.1221?

* * * * *

(e) The provisions of this section no longer apply after any of the following dates, whichever occurs first:

(1) The date that your source begins to comply with § 63.1221 by placing a Documentation of Compliance in the operating record pursuant to § 63.1211(c);

(2) The date that your source begins to comply with § 63.1221 by submitting a Notification of Compliance pursuant to § 63.1210(b); or

(3) The date for your source to comply with § 63.1221 pursuant to § 63.1206 and any extensions granted there under.

■ 5. Section 63.1206 is amended as follows:

■ a. By revising paragraph (a)(2) heading and the first sentence of paragraph (a)(2)(ii)(A).

■ b. By revising paragraphs (b)(14)(iv) and (b)(16) introductory text.

■ c. By revising paragraphs (c)(2)(v)(A)(*2*), (c)(2)(v)(B)(*4*), and (c)(9) introductory text.

§ 63.1206 When and how must you comply with the standards and operating requirements?

(a) * * *

(2) *Compliance date for solid fuel boilers, liquid fuel boilers, and hydrochloric acid production furnaces that burn hazardous waste for standards under §§ 63.1216, 63.1217, and 63.1218.*

* * * * *

(ii) * * * (A) If you commenced construction or reconstruction of your hazardous waste combustor after April 20, 2004, you must comply with the new source emission standards of this subpart by the later of October 12, 2005, or the date the source starts operations, except as provided by paragraph (a)(2)(ii)(B) of this section. * * *

* * * * *

(b) * * *

(14) * * *

(iv) *Operating limits.* Semivolatile and low volatile metal operating parameter limits must be established to ensure compliance with the alternative emission limitations described in paragraphs (b)(14)(ii) and (iii) of this section pursuant to § 63.1209(n), except that semivolatile metal feedrate limits apply to lead, cadmium, and selenium, combined, and low volatile metal feedrate limits apply to arsenic, beryllium, chromium, antimony, cobalt, manganese, and nickel, combined.

* * * * *

(16) Compliance with subcategory standards for liquid fuel boilers. You must comply with the mercury, semivolatile metals, low volatile metals, and hydrogen chloride and chlorine standards for liquid fuel boilers under § 63.1217 as follows:

* * * * *

(c) * * *

(2) * * *

(v) * * *

(A) * * *

(*2*) Although the automatic waste feed cutoff requirements continue to apply during a malfunction, an exceedance of an emission standard monitored by a CEMS or COMS or operating limit specified under § 63.1209 is not a violation of this subpart if you take the corrective measures prescribed in the startup, shutdown, and malfunction plan.

* * * * *

(B) * * *

(*4*) Although the automatic waste feed cutoff requirements of this paragraph apply during startup and shutdown, an exceedance of an emission standard or operating limit is not a violation of this subpart if you comply with the operating procedures prescribed in the startup, shutdown, and malfunction plan.

* * * * *

(9) *Particulate matter detection system requirements.* If you combustor is equipped with an electrostatic precipitator or ionizing wet scrubber and you elect not to establish under § 63.1209(m)(1)(iv) site-specific control device operating parameter limits that are linked to the automatic waste feed cutoff system under paragraph (c)(3) of this section, or your combustor is equipped with a fabric filter and you elect to use a particulate matter detection system pursuant to paragraph (c)(8)(i)(B) of this section, you must continuously operate a particulate matter detection system that meets the specifications and requirements of paragraphs (c)(9)(i) through (iii) of this section and you must comply with the corrective measures and notification requirements of paragraphs (c)(9)(iv) through (v) of this section.

* * * * *

■ 6. Section 63.1207 is amended as follows:

■ a. By adding paragraph (b)(3)(vi).

■ b. By revising paragraphs (d)(1), (d)(2), and (d)(4).

■ c. By revising the first sentence of paragraphs (g)(2)(i) and (g)(2)(ii).

■ d. By revising paragraph (m).

§ 63.1207 What are the performance testing requirements?

* * * * *

(b) * * *

(3) * * *

(vi) Sources that are required to perform the one-time dioxin/furan test pursuant to paragraph (b)(3) of this section are not required to perform confirmatory performance tests.

* * * * *

(d) * * *

(1) *Comprehensive performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence testing no later than 61 months after the date of commencing the previous comprehensive performance test used to show compliance with §§ 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, or 63.1221. If you submit data in lieu of the initial performance test, you must commence the subsequent comprehensive performance test within 61 months of commencing the test used to provide the data in lieu of the initial performance test.

(2) *Confirmatory performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence confirmatory performance testing no later than 31 months after the date of commencing the previous comprehensive performance test used to show compliance with §§ 63.1217, 63.1219, 63.1220, or 63.1221. If you submit data in lieu of the initial performance test, you must commence the initial confirmatory performance test within 31 months of the date six months after the compliance date. To ensure that the confirmatory test is conducted approximately midway between comprehensive performance tests, the Administrator will not approve a test plan that schedules testing within 18 months of commencing the previous comprehensive performance test.

* * * * *

(4) *Applicable testing requirements under the interim standards.* (i) *Waiver of periodic comprehensive performance tests.* Except as provided by paragraph (c)(2) of this section, you must conduct only an initial comprehensive performance test under the interim standards (*§§ 63.1203 through 63.1205*); all subsequent comprehensive performance testing requirements are waived under the interim standards. The provisions in the introductory text to paragraph (d) and in paragraph (d)(1) of this section apply only to tests used to demonstrate compliance with the replacement standards promulgated on or after October 12, 2005.

(ii) *Waiver of confirmatory performance tests.* You are not required to conduct a confirmatory test under the interim standards (*§§ 63.1203 through 63.1205*). The confirmatory testing requirements in the introductory text to paragraph (d) and in paragraph (d)(2) of this section apply only after you have demonstrated compliance with the replacement standards promulgated on or after October 12, 2005.

* * * * *

(g) * * *

(2) * * *

(i) Carbon monoxide (or hydrocarbon) CEMS emissions levels must be within the range of the average value to the maximum value allowed, except as provided by paragraph (g)(2)(v) of this section. * * *

(ii) Each operating limit (specified in § 63.1209) established to maintain compliance with the dioxin/furan emission standard must be held within the range of the average value over the previous 12 months and the maximum or minimum, as appropriate, that is allowed, except as provided by paragraph (g)(2)(v) of this section. * * *

* * * * *

(m) *Waiver of performance test.* You are not required to conduct performance tests to document compliance with the mercury, semivolatile metals, low volatile metals, or hydrogen chloride/chlorine gas emission standards under the conditions specified in paragraphs (m)(1) or (m)(2) of this section. The waiver provisions of this paragraph apply in addition to the provisions of § 63.7(h).

(1) *Emission standards based on exhaust gas flow rate.* (i) You are deemed to be in compliance with an emission standard based on the volumetric flow rate of exhaust gas (i.e. µg/dscm or ppmv) if the twelve-hour rolling average maximum theoretical emission concentration (MTEC) determined as specified below does not exceed the emission standard:

(A) Determine the feedrate of mercury, semivolatile metals, low volatile metals, or total chlorine and chloride from all feedstreams;

(B) Determine the stack gas flowrate; and

(C) Calculate a MTEC for each standard assuming all mercury, semivolatile metals, low volatile metals, or total chlorine (organic and inorganic) from all feedstreams is emitted;

(ii) To document compliance with this provision, you must:

(A) Monitor and record the feedrate of mercury, semivolatile metals, low volatile metals, and total chlorine and chloride from all feedstreams according to § 63.1209(c);

(B) Monitor with a CMS and record in the operating record the gas flowrate (either directly or by monitoring a surrogate parameter that you have correlated to gas flowrate);

(C) Continuously calculate and record in the operating record the MTEC under the procedures of paragraph (m)(1)(i) of this section; and

(D) Interlock the MTEC calculated in paragraph (m)(1)(i)(C) of this section to the AWFCO system to stop hazardous waste burning when the MTEC exceeds the emission standard.

(iii) in lieu of the requirement in paragraphs (m)(1)(ii)(C) and (D) of this section, you may:

(A) Identify in the Notification of Compliance a minimum gas flowrate limit and a maximum feedrate limit of mercury, semivolatile metals, low volatile metals, and/or total chlorine and chloride from all feedstreams that ensures the MTEC as calculated in paragraph (m)(1)(i)(C) of this section is below the applicable emission standard; and

(B) Interlock the minimum gas flowrate limit and maximum feedrate limit of paragraph (m)(1)(iii)(A) of this section to the AWFCO system to stop hazardous waste burning when the gas flowrate or mercury, semivolatile metals, low volatile metals, and/or total chlorine and chloride feedrate exceeds the limits of paragraph (m)(1)(iii)(A) of this section.

(2) *Emission standards based on hazardous waste thermal concentration.* (i) You are deemed to be in compliance with an emission standard specified on a hazardous waste thermal concentration basis (i.e., pounds emitted per million Btu of heat input) if the HAP thermal concentration in the waste feed does not exceed the allowable HAP thermal concentration emission rate.

(ii) To document compliance with this provision, you must:

(A) Monitor and record the feedrate of mercury, semivolatile metals, low volatile metals, and total chlorine and chloride from all hazardous waste feedstreams in accordance with § 63.1209(c);

(B) Determine and record the higher heating value of each hazardous waste feed;

(C) Continuously calculate and record the thermal feed rate of all hazardous waste feedstreams by summing the products of each hazardous waste feed rate multiplied by the higher heating value of that hazardous waste;

(D) Continuously calculate and record the total HAP thermal feed concentration for each constituent by dividing the HAP feedrate determined in paragraph (m)(2)(ii)(A) of this section by the thermal feed rate determined in paragraph (m)(2)(ii)(C) of this section for all hazardous waste feedstreams;

(E) Interlock the HAP thermal feed concentration for each constituent with the AWFCO to stop hazardous waste feed when the thermal feed concentration exceeds the applicable thermal emission standard.

(3) When you determine the feedrate of mercury, semivolatile metals, low volatile metals, or total chlorine and chloride for purposes of this provision, except as provided by paragraph (m)(4) of this section, you must assume that the analyte is present at the full detection limit when the feedstream analysis determines that the analyte in not detected in the feedstream.

(4) Owners and operators of hazardous waste burning cement kilns and lightweight aggregate kilns may assume that mercury is present in raw material at half the detection limit when the raw material feedstream analysis determines that mercury is not detected.

(5) You must state in the site-specific test plan that you submit for review and approval under paragraph (e) of this section that you intend to comply with the provisions of this paragraph. You must include in the test plan documentation that any surrogate that is proposed for gas flowrate adequately correlates with the gas flowrate.

■ 7. Section 63.1209 is amended as follows:

■ a. By revising paragraphs (l)(1)(ii)(B)(*5*) and (l)(1)(ii)(C)(*5*).

■ b. By revising paragraphs (l)(1)(iii)(B) and (l)(1)(iii)(C) introductory text.

■ c. By revising paragraphs (l)(1)(iii)(D)(*1*), and (l)(1)(iii)(D)(*2*).

■ d. By revising paragraph (n)(2)(iii)(A).

■ e. By revising paragraphs (n)(2)(v)(A)(*2*)(*iv*) and (n)(2)(v)(A)(*3*)(*v*)

■ f. By revising paragraphs (n)(2)(v)(B)(*1*)(*i*), (n)(2)(v)(B)(*1*)(*ii*), and (n)(2)(v)(B)(*2*).

■ g. By revising the first sentence of paragraph (n)(2)(vii) introductory text.

■ h. By revising paragraph (o)(1)(ii)(A)(*3*).

§ 63.1209 What are the monitoring requirements?

* * * * *

(l) * * *

(1) * * *

(ii) * * *

(B) * * *

(*5*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

(C) * * *

(*5*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

(iii) * * *

(B) When complying with the emission standards under §§ 63.1204 and 63.1220(a)(2)(ii)(A) and (b)(2)(ii)(A), you must establish a 12-hour rolling average limit for the feedrate of mercury in all feedstreams as the average of the test run averages;

(C) Except as provided by paragraph (l)(1)(iii)(D) of this section, when complying with the hazardous waste maximum theoretical emission concentration (MTEC) under § 63.1220(a)(2)(ii)(B) and (b)(2)(ii)(B), you must:

* * * * *

(D) * * *

(*1*) Identify in the Notification of Compliance a minimum gas flowrate limit and a maximum feedrate limit of mercury from all hazardous waste feedstreams that ensures the MTEC calculated in paragraph (l)(1)(iii)(C)(*4*) of this section is below the operating requirement under paragraphs §§ 63.1220(a)(2)(ii)(B) and (b)(2)(ii)(B); and

(*2*) Initiate an automatic waste feed cutoff that immediately and automatically cuts off the hazardous waste feed when either the gas flowrate or mercury feedrate exceeds the limits identified in paragraph (l)(1)(iii)(D)(*1*) of this section.

* * * * *

(n) * * *

(2) * * *

(iii) * * * (A) When complying with the emission standards under § 63.1220(a)(3)(i), (a)(4)(i), (b)(3)(i), and (b)(4)(i), you must establish 12-hour rolling average feedrate limits for semivolatile and low volatile metals as the thermal concentration of semivolatile metals or low volatile metals in all hazardous waste feedstreams. You must calculate hazardous waste thermal concentrations for semivolatile metals and low volatile metals for each run as the total mass feedrate of semivolatile metals or low volatile metals for all hazardous waste feedstreams divided by the total heat

input rate for all hazardous waste feedstreams. The 12-hour rolling average feedrate limits for semivolatile metals and low volatile metals are the average of the test run averages, calculated on a thermal concentration basis, for all hazardous waste feeds.

* * * * *

(v) * * *

(A) * * *

(*2*) * * *

(*iv*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

* * * * *

(*3*) * * *

(*v*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

(B) * * *

(*1*) * * * (*i*) The 12-hour rolling average feedrate limit is a hazardous waste thermal concentration limit expressed as pounds of chromium in all hazardous waste feedstreams per million Btu of hazardous waste fed to the boiler. You must establish the 12-hour rolling average feedrate limit as the average of the test run averages.

(*ii*) You must comply with the hazardous waste chromium thermal concentration limit by determining the feedrate of chromium in all hazardous waste feedstreams (lb/hr) and the hazardous waste thermal feedrate (MMBtu/hr) at least once each minute as [hazardous waste chromium feedrate (lb/hr)/hazardous waste thermal feedrate (MMBtu/hr)].

(*2*) *Boilers that feed hazardous waste with a heating value less than 10,000 Btu/lb.* You must establish a 12-hour rolling average limit for the total feedrate (lb/hr) of chromium in all feedstreams as the average of the test run averages.

* * * * *

(vii) *Extrapolation of feedrate levels.* In lieu of establishing feedrate limits as specified in paragraphs (n)(2)(ii) through (vi) of this section, you may request as part of the performance test plan under §§ 63.7(b) and (c) and §§ 63.1207(e) and (f) to use the semivolatile metal and low volatile metal feedrates and associated emission rates during the comprehensive performance test to extrapolate to higher allowable feedrate limits and emission rates. * * *

* * * * *

(o) * * *

(1) * * *

(ii) * * *

(A) * * *

(*3*) You must comply with the feedrate limit by determining the mass feedrate of hazardous waste feedstreams (lb/hr) at least once a minute and by knowing the chlorine content (organic and inorganic, lb of chlorine/lb of hazardous waste) and heating value (Btu/lb) of hazardous waste feedstreams at all times to calculate a 1-minute average feedrate measurement as [hazardous waste chlorine content (lb of chlorine/lb of hazardous waste feed)/hazardous waste heating value (Btu/lb of hazardous waste)]. You must update the rolling average feedrate each hour with this 60-minute average feedrate measurement.

* * * * *

■ 8. Section 63.1210 is amended by revising paragraphs (b) introductory text, (b)(3), and (c)(1) to read as follows:

§ 63.1210 What are the notification requirements?

* * * * *

(b) *Notification of intent to comply (NIC).* These procedures apply to sources that have not previously complied with the requirements of paragraphs (b) and (c) of this section, and to sources that previously complied with the NIC requirements of §§ 63.1210 and 63.1212(a), which were in effect prior to October 11, 2000, that must make a technology change requiring a Class 1 permit modification to meet the standards of §§ 63.1219, 63.1220, and 63.1221.

* * * * *

(3) You must submit the final NIC to the Administrator:

(i) *Existing units.* No later than one year following the effective date of the emission standards of this subpart; or

(ii) *New units.* No later than 60 days following the informal public meeting.

(c) * * * (1) Prior to the submission of the NIC to the permitting agency and:

(i) *Existing units.* No later than 10 months after the effective date of the emission standards of this subpart, you must hold at least one informal meeting with the public to discuss the anticipated activities described in the draft NIC for achieving compliance with the emission standards of this subpart. You must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(ii) *New units.* No earlier than thirty (30) days following notice of the informal public meeting, you must hold at least one informal meeting with the public to discuss the anticipated activities described in the draft NIC for achieving compliance with the emission standards of this subpart. You must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

* * * * *

■ 9. Section 63.1212 is amended by revising paragraphs (b)(1), (b)(3), and (b)(4) and adding paragraph (b)(5) to read as follows:

§ 63.1212 What are the other requirements pertaining to the NIC?

* * * * *

(b) * * *

(1) Prepare a draft NIC pursuant to § 63.1210(b) and make it available to the public upon issuance of the notice of public meeting pursuant to § 63.1210(c)(3);

* * * * *

(3) Provide notice to the public of a pre-application meeting pursuant to § 124.31 of this chapter or notice to the public of a permit modification request pursuant to § 270.42 of this chapter;

(4) Hold an informal public meeting [pursuant to § 63.1210(c)(1) and (c)(2)] no earlier than 30 days following notice of the NIC public meeting and notice of the pre-application meeting or notice of the permit modification request to discuss anticipated activities described in the draft NIC and pre-application or permit modification request for achieving compliance with the emission standards of this subpart; and

(5) Submit a final NIC pursuant to § 63.1210(b)(3).

* * * * *

■ 10. Section 63.1215 is amended as follows:

■ a. By revising paragraph (a)(1)(i).

■ b. By revising the definitions of ''1-Hour Average HCl-Equivalent Emission Rate'' and ''1-Hour Average HCl-Equivalent Emission Rate Limit'' in paragraph (a)(2).
■ c. By revising paragraphs (b)(2), (b)(3), and (b)(6)(ii)(C).
■ d. By revising paragraph (f)(5)(ii)(A).
■ e. By revising paragraph (h)(2)(i).

§ 63.1215 What are health-based compliance alternatives for total chlorine?

* * * * *

(a) * * *

(1) * * *

(i) Identify a total chlorine emission concentration (ppmv) expressed as chloride (Cl(−)) equivalent for each on site hazardous waste combustor. You may select total chlorine emission concentrations as you choose to demonstrate eligibility for the risk-based limits under this section, except as provided by paragraph (b)(7) of this section;

* * * * *

(2) * * *

1–Hour Average HCl-Equivalent Emission Rate means the HCl-equivalent emission rate (lb/hr) determined by equating the toxicity of chlorine to HCl using aRELs as the health risk metric for acute exposure.

1–Hour Average HCl-Equivalent Emission Rate Limit means the HCl-equivalent emission rate (lb/hr) determined by equating the toxicity of chlorine to HCl using aRELs as the health risk metric for acute exposure and which ensures that maximum 1-hour average ambient concentrations of HCl-equivalents do not exceed a Hazard Index of 1.0, rounded to the nearest tenths decimal place (0.1), at an off-site receptor location.

* * * * *

(b) * * *

(2) *Annual average rates.* You must calculate annual average toxicity-weighted HCl-equivalent emission rates for each combustor as follows:

$$ER_{LTtw} = ER_{HCl} + ER_{Cl_2} \times (RfC_{HCl}/RfC_{Cl_2})$$

Where:

ER_{LTtw} is the annual average HCl toxicity-weighted emission rate (HCl-equivalent emission rate) considering long-term exposures, lb/hr
ER_{HCl} is the emission rate of HCl in lbs/hr
ER_{Cl_2} is the emission rate of chlorine in lbs/hr
RfC_{HCl} is the reference concentration of HCl
RfC_{Cl_2} is the reference concentration of chlorine

(3) *1-hour average rates.* You must calculate 1-hour average toxicity-weighted HCl-equivalent emission rates for each combustor as follows:

$$ER_{STtw} = ER_{HCl} + ER_{Cl_2} \times (aREL_{HCl}/aREL_{Cl_2})$$

Where:

ER_{STtw} is the 1-hour average HCl-toxicity-weighted emission rate (HCl-equivalent emission rate) considering 1-hour (short-term) exposures, lb/hr
ER_{HCl} is the emission rate of HCl in lbs/hr
ER_{Cl_2} is the emission rate of chlorine in lbs/hr
$aREL_{HCl}$ is the aREL for HCl
$aREL_{Cl_2}$ is the aREL for chlorine

* * * * *

(6) * * *

(ii) * * *

(C) You must calculate the 1-hour average HCl-equivalent emission rate using these HCl and Cl_2 emission rates and the equation in paragraph (b)(3) of this section.

* * * * *

(f) * * *

(5) * * *

(ii) * * *

(A) You must determine your chlorine emissions to be the higher of the value measured by Method 26/26A as provided in appendix A–8, part 60 of this chapter, or an equivalent method, or the value calculated by the difference between the combined hydrogen chloride and chlorine levels measured by Method 26/26A as provided in appendix A–8, part 60 of this chapter, or an equivalent method, and the hydrogen chloride measurement from EPA Method 320/321 as provided in appendix A, part 63 of this chapter, or ASTM D 6735–01 as described under § 63.1208(b)(5)(i)(C), or an equivalent method.

* * * * *

(h) * * *

(2) * * *

(i) *Proactive review.* You must submit for review and approval with each comprehensive performance test plan either a certification that the information used in your eligibility demonstration has not changed in a manner that would decrease the annual average or 1-hour average HCl-equivalent emission rate limit, or a revised eligibility demonstration.

* * * * *

■ 11. Section 63.1217 is amended by revising paragraphs (a)(6)(ii) and (b)(6)(ii) to read as follows:

§ 63.1217 What are the standards for liquid fuel boilers that burn hazardous waste?

(a) * * *

(6) * * *

(ii) When you burn hazardous waste with an as-fired heating value of 10,000 Btu/lb or greater, emissions in excess of 5.1×10^{-2} lbs combined emissions of hydrogen chloride and chlorine gas attributable to the hazardous waste per million Btu heat input from the hazardous waste;

* * * * *

(b) * * *

(6) * * *

(ii) When you burn hazardous waste with an as-fired heating value of 10,000 Btu/lb or greater, emissions in excess of $5.1 \times^{-2}$ lbs combined emissions of hydrogen chloride and chlorine gas attributable to the hazardous waste per million Btu heat input from the hazardous waste;

* * * * *

■ 12. Section 63.1220 is amended by revising paragraphs (a)(2)(ii) and (b)(2)(ii) to read as follows:

§ 63.1220 What are the replacement standards for hazardous waste burning cement kilns?

(a) * * *

(2) * * *

(ii) Either:

(A) Emissions in excess of 120 μg/dscm, corrected to 7 percent oxygen, or

(B) A hazardous waste feed maximum theoretical emission concentration (MTEC) in excess of 120 μg/dscm;

* * * * *

(b) * * *

(2) * * *

(ii) Either:

(A) Emissions in excess of 120 μg/dscm, corrected to 7 percent oxygen, or

(B) A hazardous waste feed maximum theoretical emission concentration (MTEC) in excess of 120 μg/dscm;

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 13. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

■ 14. Section 264.340 is amended as follows:
■ a. By revising the first sentence of paragraph (b)(1) and paragraph (b)(3).
■ b. By removing paragraph (b)(5).

§ 264.340 Applicability.

* * * * *

(b) * * *

(1) Except as provided by paragraphs (b)(2) through (b)(4) of this section, the standards of this part do not apply to a new hazardous waste incineration unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste incineration unit demonstrates

compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) of this chapter documenting compliance with the requirements of part 63, subpart EEE, of this chapter. * * *

* * * * *

(3) The particulate matter standard of § 264.343(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard under §§ 63.1206(b)(14) and 63.1219(e) of this chapter.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

■ 15. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001–3009, 3014, 6905, 6906, 6912, 6921, 6922, 6924–6927, 6934, and 6937.

§ 266.100 [Amended]

■ 16. Section 266.100 is amended by redesignating the second paragraph (b)(3)(ii) as (b)(3)(iii).

[FR Doc. E8–6667 Filed 4–7–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 071030628–8482–02]

RIN 0648–AV84

Endangered and Threatened Wildlife; Sea Turtle Conservation

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to clarify the existing sea turtle conservation requirements for sea scallop dredge vessels entering waters south of 41°9.0′ N. latitude from May 1 through November 30 each year and to add a transiting provision to the requirements. Any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enters waters south of 41°9.0′ N. latitude, from the shoreline to the outer boundary of the Exclusive Economic Zone (EEZ) must have a chain mat on each dredge, unless the terms of the transiting provision are met. The chain-mat modified dredge is necessary to help reduce mortality and injury to endangered and threatened sea turtles in scallop dredge gear and to conserve sea turtles listed under the Endangered Species Act (ESA). This current action addresses a procedural error in the original rulemaking to require chain mats on scallop dredge gear, clarifies the existing requirements, and adds a transiting provision to the regulations. Any incidental take of threatened sea turtles in sea scallop dredge gear in compliance with this gear modification requirement and all other applicable requirements will be exempted from the ESA's take prohibition.

DATES: Effective May 8, 2008.

ADDRESSES: Copies of the Environmental Assessment (EA) and Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this final rule may be obtained by writing to Ellen Keane, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Ellen Keane (ph. 978–281–9300 x6526, fax 978–281–9394, e-mail *ellen.keane@noaa.gov*) or Barbara Schroeder (ph. 301–713–2322, fax 301–427–2522, e-mail *barbara.schroeder@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) sea turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico that are listed as endangered. Due to the inability to distinguish between these populations of green turtles away from the nesting beach, NMFS considers green sea turtles endangered wherever they occur in U.S. waters. Kemp's ridley, hawksbill, loggerhead, and green sea turtles are hard-shelled sea turtles. The incidental take, both lethal and non-lethal, of loggerhead, Kemp's ridley, and unidentified hard-shelled sea turtles has been documented in the sea scallop dredge fishery, as well as a non-lethal take of a green sea turtle (NEFSC FSB, Observer Database). In addition, an unconfirmed take of a leatherback sea turtle was reported during the experimental fishery to test the chain-mat modified dredge gear (DuPaul *et al.*, 2004).

This action is being taken under the ESA provisions authorizing the issuance of regulations to conserve threatened species and for enforcement purposes (sections 4(d) and 11(f), respectively). The requirement to use chain-mat modified dredge gear is necessary to provide for the conservation of threatened loggerhead sea turtles, and will have ancillary benefits for other sea turtle species that have been taken in the sea scallop dredge fishery, albeit to a lesser extent than loggerheads. Under the ESA and its implementing regulations, taking endangered sea turtles—even incidentally—is prohibited. The incidental take of endangered species may only legally be exempted by an incidental take statement (ITS) or an incidental take permit issued pursuant to section 7 or 10 the ESA, respectively. Existing sea turtle conservation regulations at 50 CFR 223.206(d) exempt fishing activities and scientific research from the prohibition on takes of threatened species under certain conditions. Any incidental take of threatened loggerhead sea turtles in sea scallop dredge gear in compliance with this gear modification requirement and other applicable requirements is exempted from the prohibition against takes.

The chain-mat modified dredge is expected to benefit sea turtles following an interaction in the water column. Based on the available information, NMFS has determined that the use of a chain-mat modified dredge will prevent most captures of sea turtles in the dredge bag as well as any ensuing injuries as a result of such capture (e.g., crushing in the dredge bag, crushing on deck, etc.). However, NMFS has made the conservative assumption that a turtle in a bottom interaction sustains significant injuries on the bottom, so, under this conservative assumption, there would not be a benefit from the chain mat for bottom interactions. This assumption, however, may be too conservative in that it is possible (although not likely) that turtles in a bottom interaction only receive minor injuries. In the unlikely scenario of a turtle receiving only minor injuries following a bottom interaction, the chain mat modification would prevent significant injuries that result from capture in the dredge bag (i.e, injuries

from debris in the bag, drowning from forced submergence, dropping on deck, or crushing by the dredge). Additional information on the background, affected environment, and environmental consequences of this action is included in the preamble to the proposed rule (72 FR 63537, November 9, 2007) and in the Final Environmental Assessment (EA) for this aciton.

This final rule will (1) clarify the requirements related to the use of chain mats in the Atlantic sea scallop dredge fishery, (2) add a transiting provision, and (3) address a procedural error in the August 2006 rulemaking (71 FR 50361, August 25, 2006) that required the use of chain-mat modified dredges in the Atlantic sea scallop fishery.

Specifically, this action requires any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enters waters south of 41° 9.0′ N. latitude from the shoreline to the outer boundary of the EEZ, to modify their dredge(s) with a chain mat. The chain mat must be composed of horizontal and vertical chains configured such that the openings formed by the intersecting chains have no more than four sides. The length of each side of the openings created by the intersecting chains, including the sweep, must be less than or equal to 14 inches (35.5 cm). Any vessel that enters the waters described above and that is required to have a Federal Atlantic sea scallop fishery permit must have the chain mat configuration installed on all dredges for the duration of the trip, unless it meets the terms of the transiting provision. Vessels may transit through the regulated area provided that the dredge gear is stowed and there are no scallops on board. These requirements are in place from May 1 though November 30 each year.

New Information

Since the requirement for the chain-mat modified gear became effective in the fall of 2006, there have been five takes of sea turtles in the scallop dredge fishery. Four of the takes, all loggerhead sea turtles, occurred south of the current northern boundary of the chain mat regulation, while one take, a Kemp's ridley sea turtle, was documented north of this line. Of the four takes south of the line, one of the turtles was observed on top of the dredge frame, swimming away before the dredge came on deck; two were observed in the dredge bag; and one turtle was reported between the chain mat and the dredge. These takes occurred in June (1), August (1), September (2), and October (2). While information on the incidental take that occurred in June was available for the proposed rule, the data on the remaining takes were considered preliminary at that time. Detailed information on these takes and the implications these takes may have regarding the chain-mat modified gear are discussed in the response to Comment 1.

Comments and Responses

On November 9, 2007, NMFS published a proposed rule to clarify the requirements regarding chain-mat modified dredges in the Atlantic sea scallop fishery and to add a transiting provision to these requirements (72 FR 63537, November 9, 2007). Comments on this proposed action were requested through December 10, 2007. Six comment letters from individuals or organizations were received during the public comment period. Two commenters were generally supportive of the action but provided comments on particular aspects of the proposed rule, three commenters were opposed to the proposed action, and one provided neither support nor opposition to the proposed action. A complete summary of the comments and NMFS(responses, grouped according to general subject matter in no particular order, is provided here. In their comment letter on the proposed rule, Oceana incorporated comments submitted previously on the Biological Opinion for the Atlantic sea scallop fishery and on the August 2006 chain mat regulation. Those comments included in the submission and relevant to this action will be addressed in the comment/response section below. This submission also included comments that are not relevant to this particular action. These include comments on the original rulemaking related to the economic analysis for the seasonal closure (a non-preferred alternative), other comments on alternatives not considered in this action, and reinititation of consultation based on a letter dated March 13, 2005 received from Dr. Heppell addressing the December 2005 Biological Opinion and a statement on cumulative effects included in the Draft EA (NMFS 2006a) for that action. These comments are addressed in the August 2006 final rule (71 FR 50361, August 25, 2006). Additional comments not relevant to this action are related to the jeopardy analysis included in the Biological Opinion, and the model used for the analysis, and turtle excluder devices for the sea scallop trawl fishery.

Comment 1: The purported benefit of chain mats was that, even though most sea turtles are probably severely injured or killed as a result of seafloor collisions, some small number that collide with dredges in the water column are saved because they are prevented from entering the dredge bag. This benefit may be illusory since five turtles were observed captured in 2007, a large number given the low levels of observer coverage in the fishery.

Response: Since the requirement for the chain-mat modified gear became effective, the Northeast Fisheries Science Center (NEFSC) Fisheries Sampling Branch (FSB) has documented five takes of sea turtles in the scallop dredge fishery. These takes occurred in June (1), August (1), September (2), and October (2). Four of the takes, all loggerhead sea turtles, occurred south of the 41°9.0′ N. latitude line (the northern boundary of the regulation); while one take, a Kemp's ridley (fresh dead), was documented north of this line. Chain mats were not required, nor were they used, on the trip that occurred north of 41°9.0′ N. latitude. Of the four takes south of the line, one of the turtles was reported by the crew on top of the dredge frame; two were reported in the dredge bag; and one was reported by the captain on the outside of the chains, between the chains and the dredge. All four of the turtles were alive and the observers' comments indicated that the turtles were injured (NEFSC, FSB, Observer Database).

One of the turtles was reported on the top of the dredge frame, possibly held by water pressure. This turtle swam away before the gear was hauled above the waterline. Sea turtles have been documented on the dredge frame previously and have swum away as the gear nears/reaches the surface, indicating that the turtle may have been held by water pressure. NMFS has no indication that this type of interaction would result in significant injury. The chain mat gear is designed to prevent sea turtles from being captured in the dredge bag, not to prevent this type of interaction, which can occur regardless of whether a chain mat is used.

One turtle was reported by the vessel captain to be on the outside of the chain mat, caught between the dredge and the chains. However, it is unclear exactly how and where the turtle was caught/hung up on the dredge frame and/or the chains. The observer did not see the turtle until it was brought on-board. The captain reported that the turtle hit between the dredge and the vessel and then again while lowering the gear to deck. This type of interaction could result in injuries that occur during hauling and emptying of the gear. In 2005 and 2006, NMFS worked with

industry to test a dredge with a modified frame designed to guide sea turtles up and over the dredge frame (see response to Comment 3). The video work conducted during this project did show that sea turtles may become caught on the chains following an interaction on the bottom. However, this likely follows the turtle being struck by the dredge, during which it is likely to have become injured. It is not known whether the interaction in 2007 occurred in the water column or on the bottom. From the available information, it is not known whether the chain mat contributed to the take or the nature of the injuries sustained by the turtle. NMFS is not aware of any other interactions of this nature and it is possible that this is a unique event. NMFS will continue to monitor the sea scallop dredge fishery to determine whether this is indeed a unique event.

The chain-mat modified gear is expected to prevent most sea turtles from entering the dredge bag and injuries that result from such capture. However, two turtles were documented in the dredge bag by the NEFSC FSB in 2007. NMFS investigated whether this may mean that the gear was not functioning as expected and as described in the proposed rule for this action. For one of the interactions resulting in capture in the dredge bag, the openings in the chain mat were measured by the observer at the start of the trip and following the take. After the tow in which the turtle was observed, some openings in the chain mat, particularly at the top of the bag and near the sweep, measured from 16 to 20 inches (40.6–50.8 cm). The turtle captured on this trip measured 65.2 cm (25.7 inches) curved carapace length from notch to tip and 61.5 cm (24.2 inches) curved carapace width (NEFSC, FSB, Observer database). Using the formulas in Teas (1993) and Coles (1999), respectively, this is a straight carapace length of 60.4 cm (23.8 inches) and a straight carapace width of 50.2 cm (19.8 inches). Given the larger openings recorded in the chain mat, a sea turtle of the size observed captured would be small enough to pass through the observed openings.

The second turtle reported captured in the dredge bag measured 89 cm (35.0 inches) from notch to tip and 83 cm (32.7 inches) curved carapace width (NEFSC, FSB, Observer database). Using the formulas in Teas (1993) and Coles (1999), respectively, this is a straight carapace length of 82.9 cm (32.6 inches) and a straight carapace width of 66.2 cm (26.1 inches). No measurements were taken of the openings in the chain mat. However, the observer's comments indicate that there were breaks in, or problems with, the chain mat that allowed the turtle to be captured in the bag. There were several comments in the observer's log about chains/shackles being broken, but none specifically on the tow in which the turtle was taken. On tows prior to the one on which the turtle was taken, there were several instances of large (500 pound (227 kg) and 800 pounds (363 kg)) rocks being caught inside the dredge. The rocks were larger than the turtle that was taken, and too large to fit through a chain mat that was operating correctly. The observer also stated that the horizontal chain closest to the cutting bar may not have been attached to the vertical chain, so the grid was not fixed, which would allow for larger openings (memo from Pasquale Scida to The File, March 11, 2008). For both interactions that resulted in the capture of the sea turtle in the dredge bag, the observers' comments indicate that there were openings in the gear larger than the openings required, allowing the sea turtles to pass into the dredge bag.

This information shows that non-compliant chan mats may result in failure to achieve the intended conservation benefits. However, it does not indicate that the gear, when properly implemented, does not function as expected. NMFS believes that when the gear is properly implemented, it will prevent most sea turtles from being captured in the dredge bag. NMFS is developing a plan to collect information on and to monitor the degree/frequency of stretch and breakage that is occurring in order to better understand the impacts of the wear of the gear. NMFS will also continue to use observer data to gain a better understanding of how sea turtles may be interacting with other parts of the dredge gear (i.e., outside of the dredge bag).

The observer coverage in the Atlantic sea scallop dredge fishery in 2007 is comparable to that over the preceding 5 years (memo from Ellen Keane to The File, February 27, 2007). The number of observed hauls May 1 through November 30 in waters south of 41°9.0′ N. latitude was 4617 in 2002, 5877 in 2003, 10609 in 2004, 7601 in 2005, and 5176 in 2006. From May 1 through October 31, 2007, 8317 hauls were observed. Data on the number of hauls observed in November 2007 is not yet available, but will increase the total number of observed hauls in 2007. The number of hauls observed in 2007 is greater than all but one of the preceding 5 years.

Comment 2: Two comments addressed the spatial extent of the proposed rule. One supported using a longitudinal line at 70° W. longitude (long.) as the boundary of the rule as, according to the comment, this is the area in which the gear was tested and is far northward of the area where takes are likely to occur, or where they have occurred with rare exceptions. A second commenter supported the action and the northern boundary as proposed, but noted that the boundary needs to be monitored closely for any changes in the distribution of sea turtles or sea scallops, and therefore, fishing effort, due to environmental change.

Response: Sea turtle species that are found off the northeastern coast of the United States north of Cape Hatteras, North Carolina are, in order of frequency of occurrence, loggerhead, leatherback, Kemp's ridley, and green sea turtles (Shoop, 1980; Shoop and Kenney, 1992). The distributions of all four species overlap in part with the distribution of scallop dredge gear. Loggerhead, leatherback, Kemp's ridley, and green sea turtles occur seasonally in southern New England and mid-Atlantic continental shelf waters north of Hatteras. The occurrence of these species in these waters is temperature dependent (Keinath *et al.*, 1987; Shoop and Kenney, 1992; Musick and Limpus, 1997; Morreale and Standora, 1998; Braun-McNeill and Epperly, 2002; James *et al.*, 2005b; Morreale and Standora, 2005). In general, turtles move up the coast from southern wintering areas as water temperatures warm in the spring. The trend is reversed in the fall as water temperatures cool. By December, turtles have passed Cape Hatteras, returning to more southern waters for the winter (Keinath *et al.*, 1987; Shoop and Kenney, 1992; Musick and Limpus, 1997; Morreale and Standora, 1998; Braun-McNeill and Epperly, 2002; James *et al.*, 2005b; Morreale and Standora, 2005). Hard-shelled species are typically observed as far north as Cape Cod whereas more cold-tolerant leatherbacks are observed in more northern Gulf of Maine waters in the summer and fall (Shoop and Kenney, 1992; STSSN database). Extensive survey effort on the continental shelf from Cape Hatteras, North Carolina to Nova Scotia, Canada in the 1980s (CeTAP, 1982) revealed that loggerheads were observed in waters from the beach to depths of up to 4481 m (14,701 ft). However, they were, in general, more commonly found in waters from 22–49 m (72.2–160.8 ft) deep (Shoop and Kenney, 1992). The overall depth range of leatherback sightings in the CeTAP study (1982) was comparable to loggerheads.

Leatherbacks were sighted in water depths ranging from 1–4151 m (3.3–13,619 ft) (Shoop and Kenney, 1992). However, leatherback depth distribution was broader than that of loggerheads with 84.4 percent of the sightings in waters less than 180 m (590.6 ft) (Shoop and Kenney, 1992). By comparison, 84.5 percent of loggerhead sightings were in waters less than 80 m (262.5 ft) (Shoop and Kenney, 1992). The CeTAP study did not include Kemp's ridley and green turtle sightings given the difficulty of sighting these smaller species.

Sixty-five turtles have been observed taken in the sea scallop dredge fishery from 1996 through December 2007. An additional 16 turtles were reported captured on an off-watch or unobserved haul. Prior to 2005, no sea turtle takes had been observed in the sea scallop dredge fishery outside the mid-Atlantic region. In the 1999 and 2000 scallop fishing years, relatively high levels of observer coverage (22 percent–51 percent) occurred in portions of the Georges Bank Multispecies Closed Areas that were conditionally opened to scallop fishing (memo from M. Sissenwine to P. Howard, November 1, 2000). Despite this high level of observer coverage and operation of scallop dredge vessels in the area during June–October, no sea turtles were observed captured in scallop dredge gear in these years. From 2001 through 2004, observer coverage was low in the Gulf of Maine (<1 percent in 2001, 2002, and 2004) and Georges Bank regions (<1 percent in 2001, 2002, and 2003; <2 percent from September through November 2004, with most of the coverage occurring in November) (Murray, 2004a, 2005).

Two takes have been documented in the sea scallop dredge fishery on Georges Bank. In August 2005, a Kemp's ridley sea turtle was taken at approximately 40° 58′ N. lat./67° 16′ W. long., just south of the northern boundary of the chain-mat requirements, by a dredge vessel operating on the southern portion of Georges Bank demonstrating that takes in this area are possible. In 2007, a second Kemp's ridley was taken on Georges Bank at approximately 41° 24′ N. lat./68° 30′ W., just north of the northern boundary of the requirements.

The NEFSC FSB has documented interactions between sea turtles and other commercial fisheries operating in the Georges Bank region. NMFS examined the observer database for sea turtle-fishery interactions in statistical areas 521, 522, 525, 526, 561, and 562. These areas overlap Georges Bank and are east of 70° W. long. From 1989 through 2006, the NEFSC FSB documented 166 sea turtles (excluding moderately and severely decomposed turtles) taken in these areas (memo from John Boreman to Patricia A. Kurkul, March 16, 2006). Of these, only one interaction was documented north of 41°9.0′ N lat. It should be noted that these numbers include all of the turtle data contained in the NEFSC observer database, even though fisheries and turtle bycatch information in the early years is not necessarily reflective of current conditions, nor necessarily analyzed by the NEFSC (such as pelagic longline data) (memo from John Boreman to Patricia A. Kurkul, March 16, 2006). These data show that sea turtles are present on the southern portion of Georges Bank and would be vulnerable to capture by sea scallop dredge gear operating in this area.

As described in the Final EA, the variables associated with sea turtle bycatch in the sea scallop dredge gear are inconclusive (Murray 2004a, 2004b, 2005). Sea surface temperature (SST), depth, time-of-day, and tow time were identified as variables affecting observed bycatch rates of sea turtles with scallop dredge gear (Murray, 2004a, 2004b, 2005). However, the variable(s) associated with the highest bycatch rates changed from one year to another (e.g., SST, depth) or could not be further analyzed (e.g., time-of-day and tow time) because the information is not collected for the entire fishery (Murray, 2004a, 2004b, 2005). Therefore, a single variable has not yet been found for forecasting sea turtle bycatch in sea scallop dredge gear. Intense biological activity is usually associated with oceanographic fronts because they are areas where water masses of different densities converge (Robinson and Hamner; *www.mbari.org/muse/Participants/Robinson-Hamner.html* posted February 18, 2004). A review of the data associated with the 11 sea turtles captured by the scallop dredge fishery in 2001 concluded that the turtles appeared to have been near the shelf/slope front (memo from David Mountain to Cheryl Ryder and Paul Rago, March 22, 2002). Such oceanographic features occurring in the same area as the operation of scallop dredge gear may increase the risk of interactions between scallop dredge gear and sea turtles.

While these geographic and oceanographic factors may increase the risk of sea turtle interactions with scallop gear, evidence for these is presently lacking. Interactions of sea turtles with scallop dredge gear are likely where sea turtle distribution overlaps with the fishery. Based on the known distribution of sea turtles and the observed take of sea turtles in fisheries operating on Georges Bank, NMFS expects the take of sea turtles by dredge vessels operating north of 41°9.0′ N. lat. to be rare. However, it is known that sea turtles are present on southern Georges Bank and may be vulnerable to capture in sea scallop dredge gear operating in this area. Therefore, based on: (1) the known distribution of sea turtles, (2) sea scallop dredge fishing effort, and (3) the observed take of sea turtles, this rule maintains the eastern boundary at the EEZ and the northern boundary at 41°9.0′ N. lat. NMFS will continue to evaluate new information as it becomes available and continue to assess the appropriateness of these boundaries. This action does not preclude NMFS from modifying these boundaries at a future time.

Comment 3: One commenter supported the changes to the chain mat requirement but noted that the changes do not address the operation of the dredge on the bottom and that further efforts, such as modifications to the dredge design, are needed. NMFS has expended major effort addressing sea turtle interactions with ''dredge trawls'', but has paid insufficient attention to the dredges themselves where turtles can get lodged in the gear and run over by the dredge. The commenter urges NMFS to increase funding and research to determine the extent of interactions and address them as soon as possible.

Response: NMFS continues to be concerned about sea turtle takes in the scallop fishery and is working to minimize them. The chain-mat modification has been shown to reduce the capture of sea turtles in the scallop dredge bag and injuries resulting from such capture. As described in the response to Comment 24, it is likely that sea turtles interact with sea scallop dredge gear on the sea floor and in the water column. However, it is not known what proportion of sea turtles interact with the gear on the sea floor or the water column. NMFS believes the chain mat will prevent serious injury leading to death or failure to reproduce caused by crushing from debris in the dredge bag, dumping of turtles on the vessel's deck, and crushing them by the falling gear. NMFS recognizes that interactions may still occur on the sea floor and may result in serious injury or mortality. Therefore, NMFS is continuing to work to address this type of interaction.

In 2005 and 2006, NMFS worked with industry to test a dredge with a modified cutting bar and bail designed to minimize impacts to turtles that may be encountered on the bottom by guiding the sea turtle over the dredge frame (NMFS, 2005; Milliken *et al.*,

2007). The project used turtle carcasses and model turtles to simulate a worst case scenario of a dredge overtaking a sea turtle lying on the bottom. During the 2005 study, the turtle carcasses were observed lodged in front of the cutting bar and pushed along, eventually going under the cutting bar and getting caught on the chain mat. The model turtle was deployed on one tow with the modified dredge in 2005. During this tow, the model turtle was deflected over the bail of the modified dredge (NMFS, 2005). Based on the results of the 2005 study, the dredge was further modified and additional trials were conducted in 2006. In 8 of the 12 successful trials, the carcasses went over the dredge (n=7) or were deflected to the side (n=1), indicating that the design may be effective in guiding turtles up and over the dredge (Milliken *et al.*, 2007). It is important to note that the project was limited in that behavioral responses of a live turtle encountering a dredge could not be assessed. The results of these studies indicate that this modification may be effective at guiding sea turtles up and over the dredge frame. NMFS is continuing to test this modification to assess whether it will be effective in reducing the severity of injuries to sea turtles interacting with sea scallop dredges on the bottom.

In addition, research using video has been conducted to better understand the nature of the interactions. Three recent projects have used video to try to document sea turtle behavior and interactions with sea scallop dredges. In addition to the work conducted in 2005 and 2006 on the modified dredge frame, researchers used video during the 2003–2004 study of the chain-mat modified dredge. During this study, one trip was designated as a research camera cruise where underwater video was taken of the modified dredge during normal fishing operations (DuPaul *et al.*, 2004). Video was also used on two other cruises. No sea turtles were documented by video on the three cruises that utilized cameras (R. Smolowitz, pers. comm.).

In 2004 and 2005, the NEFSC also worked with researchers and commercial fishermen to conduct approximately 80 hours of videotaping of dredges as they are fished. These studies were designed to observe sea turtle behavior around sea scallop dredge gear. In 2004, 7 hours of video was taken on a 3-day trip. During this project, video techniques and tools were developed to document the behavior of sea turtles. However, no sea turtles were recorded (Smolowitz *et al.*, 2005). In 2005, video was collected over 2 trips, one in August and one in September (Smolowitz and Weeks, 2006). Approximately 80 hours of video were collected during these trips. This video has been reviewed and no sea turtles were documented (Smolowitz and Weeks, 2006).

It is evident from these studies that using video to document the specific nature of sea turtle-sea scallop dredge interactions, in general, and sea turtle-chain mat interactions specifically, is logistically difficult. Despite the challenges associated with using video to document interactions between sea turtles and sea scallop dredges, NMFS plans to continue collecting video in conjunction with other gear projects in an effort to gain a better understanding of interactions between sea scallop dredge gear and sea turtles.

NMFS is also investigating gear modifications to minimize impacts to sea turtles resulting from interactions in the sea scallop trawl fishery. In 2006, the use of a turtle excluder device (TED) in the scallop trawl fishery was investigated (Lawson and DeAlteris, 2006). This research is on-going. NMFS is considering amendments to the regulatory requirements for TEDs, including requiring the use of TEDs in the trawl component of the Atlantic sea scallop fishery (72 FR 7382, February 15, 2007).

Comment 4: One commenter believes the solution is to create hatcheries for turtles that release more turtles than have interactions with commercial fishing gear. The hatchery could raise the turtles to two or more years before releasing them.

Response: Headstarting is used to describe the process whereby turtles are maintained in captivity for a period following hatching (USFWS and NMFS, 1992). The premise behind headstarting is that sea turtles will be larger and less susceptible to predators upon their release; thus, increasing their chances of survival. Sea turtles have been captive reared in a number of projects, including green sea turtles in Florida (Huff, 1989) and Kemp's ridley sea turtles in Texas (USFWS and NMFS, 1992). Generally, this has been considered experimental as a management technique (NRC, 1990; USFWS and NMFS, 1992) and has been controversial for a number of reasons, including that it is unproven, removes turtles from their natural environment, and does not reduce the threats that cause population declines (NRC, 1990; Shaver and Wibbels, 2007). The effectiveness of headstarting is dependent on the survival, adaptation, and eventual breeding of sea turtles after their release (Shaver and Wibbels, 2007). Some headstarted sea turtles have been documented nesting (Shaver and Calliouet, 1998; Bell *et al.*, 2005; Shaver, 2005). However, data are often limited and it is not clear how many documented nestings are required to indicate success of a program. Although headstarted sea turtles have been shown to successfully nest, it is not known that such a program increases the size of the wild breeding stock of sea turtles.

In addition, it is important to protect in-water populations of sea turtles. Based on the size of Atlantic loggerheads at various life stages and the measurements of sea turtles captured in the sea scallop dredge fishery, NMFS anticipates that both benthic immature and sexually mature loggerhead sea turtles are captured in the fishery (NMFS, 2008). This is a different size class than would be released from the head-starting program. Population model analyses for loggerhead sea turtles indicated survival in the first year was less critical than survival in later life stages (Crouse *et al.*, 1987). Heppel *et al.* (1996) used a series of deterministic matrix models for yellow mud turtles and Kemp's ridley sea turtles to examine the effects of headstarting. This study showed that efforts focusing exclusively on improving survival in the first year of life are unlikely to be effective for long-lived species such as turtles. Across turtle species, analyses of growth rates have consistently shown that these rates depend strongly on survival of turtles nearing or reaching sexual maturity (*i.e.*, large juveniles, sub-adults, and sexually mature animals) (Heppell, 1998). Benthic immature and sexually mature loggerhead sea turtles are the size classes that are impacted by the sea scallop dredge fishery.

Comment 5: Several comments were received on the ITS for the Atlantic sea scallop dredge fishery. One commenter states that NMFS has a history of failing to recognize the extent and impact of the scallop dredge fishery's impact on turtles as estimates of take have increased in the 2003 and 2004 Biological Opinions and that the current levels are unacceptably high. In addition, chain mats contribute to underestimates by not bringing sea turtles out of the water, and the failure to lower the ITS in the 2006 Biological Opinion leads them to believe that NMFS does not expect that the take and injury will be significantly reduced with the use of the chain mats. Comments on the original chain-mat rulemaking, and resubmitted with this rulemaking, stated that the proposed rule's estimated take was too low because the 2004 Biological Opinion did not include a number of ways that dredges can take sea turtles

(*i.e.*, being hauled up on top of the gear, being wedged in the forward parts of the dredge frame, being held against the dredge by the pressure of the flow of water, or by being run over by the dredge and chain bag). In addition, one commenter stated that the assumption that sea turtles are interacting with the dredges at the same rate as prior to 2006 is not sound science, as industry has fewer days.

Response: The most recent consultation on the continued authorization of the Atlantic sea scallop fishery, conducted under section 7 of the ESA, was completed in March 2008. The Biological Opinion for that consultation provides the consultation history, the past and anticipated future effects of the fishery on ESA-listed species, and measures to be taken by NMFS to address the taking of ESA-listed species in the scallop dredge and trawl fisheries (NMFS, 2008).

For the reasons stated in the background and in the response to comment 24, NMFS believes that the serious injury and mortality rate of sea turtles interacting with chain-mat modified gear will be less than that calculated for the Biological Opinion since fewer turtles will be subject to injuries occurring within the dredge bag or as a result of dumping the bag on deck. However, NMFS cannot quantify the reduction in mortality rate given that the proportion of sea turtles interacting with the dredge in the water column versus on the bottom is not known. For the section 7 consultation on the continued authorization of the scallop fishery, NMFS uses the best available information and provides the benefit of the doubt to the species where information is incomplete. Therefore, since the reduction in the mortality rate cannot be quantified, the anticipated number of lethal sea turtle interactions was not reduced as a result of the implementation of the chain-mat regulations.

The bycatch estimates completed by the NEFSC (Murray 2004a, 2004b, 2005, 2007), and the anticipated take level in the Biological Opinions, included any interaction occurring during an on-watch haul, that was not moderately or severely decomposed upon capture. This includes sea turtles hauled up on top of the gear, wedged in the forward parts of the dredge frame, held against the dredge by the pressure of the flow of water as observed from on deck, or turtles swimming at the surface that were observed ''bumped'' by the cables of the dredge. Sea turtles may interact with the gear and not be brought to the surface. These interactions cannot be quantified at this time.

The number of days available to industry would not change the bycatch rate (number of turtles taken per unit of effort) of sea turtles in the fishery, but would change the total estimated bycatch of sea turtles if the fishing effort has been reduced in areas and at times where turtle occur. NMFS recognizes that recent management measures have/will constrain effort in the mid-Atlantic sea scallop fishery. In Framework 18 to the Scallop FMP, open areas DAS allocations were lower than the 2004 levels (71 FR 2006, June 8, 2006). Amendment 11 to the Scallop FMP proposes to control the capacity of the general category scallop fishery and, if implemented, would limit the number of vessels that can participate in the fishery and the number of scallops that can be retained and landed by vessels in the general category fleet (72 FR 71315, December 17, 2007). As described above, in the section 7 consultation process under the ESA, NMFS uses the best available information and provides the benefit of the doubt to the species where information is incomplete. For the purpose of analyzing the effects of the sea scallop dredge fishery on loggerhead sea turtles, NMFS considers that the bycatch estimates in the 2003 and 2004 fishing years provide the best available information. NMFS believes that the serious injury and mortality rate of sea turtles interacting with chain-mat modified gear will be less than that calculated for the Biological Opinion since fewer turtles will be subject to injuries occurring within the dredge bag or as a result of dumping the bag on deck. However, NMFS cannot quantify the reduction in mortality rate at this time. Refer to the March 2008 Biological Opinion for additional information on the estimate of take in this fishery.

Comment 6: Sonar could be utilized to displace sea turtles from the areas where scallopers are working.

Response: The information on the hearing capabilities of sea turtles is limited, but suggests that the auditory capabilities are centered in the low-frequency range (<1kHz) (Ridgeway *et al.*, 1969; Lenhardt *et al.*, 1996; Bartol *et al.*, 1999). There is also very little information about sea turtle behavioral reactions to levels of sound below the thresholds suspected to cause injury or Temporary Threshold Shift (Ridgeway *et al.*, 1969; McCauley, 2000). Given the limited information on sea turtle hearing and behavior in response to sound, this type of mitigation is not feasible. The use of sonar could result in injury, affect sea turtle behavior, and displace sea turtles from a preferred habitat including foraging grounds, and would constitute a take under the ESA. The use of sonar could also impact other animals in the area in which it is utilized. Some of these species are protected under the Marine Mammal Protection Act and the ESA.

Comment 7: No dredging, trawling, or longlining should be allowed.

Response: As described in the response to Comment 2, sea turtle presence varies with season. The capture of sea turtles in sea scallop dredge gear has been documented in the mid-Atlantic from June through October and the potential for takes exists in May and November due to the overlap of the sea scallop dredge fishery with sea turtle distribution. As sea turtle distribution and sea scallop dredge effort are not expected to overlap from December 1 through April 30, banning dredging during these months is not expected to provide benefits to sea turtles. A seasonal closure of the mid-Atlantic was considered during the original rulemaking to require chain-mat modified dredges in the Atlantic sea scallop dredge fishery. This alternative was rejected given the uncertainty of the extent of the area in which interactions occur, the broad extent of the closure, and the potential displacement of effort to other fishing areas. Additional information on this alternative can be found in the August 2006 final rule (71 FR 50361, August 25, 2006) and its accompanying EA (NMFS, 2006). The comments regarding longline and trawl fisheries are not relevant to this action.

Comment 8: NMFS should consider additional methodologies to reduce sea turtle interactions with the dredge fleet, such as keeping discards on board during fishing operations as sea turtles may be attracted to the discards.

Response: It has been suggested that the discard of scallop viscera during fishing operations may be attracting sea turtles to the fishing area. White (2004) reported loggerhead sea turtles opportunistically feeding on discards from gillnet vessels docked at a quay in Greece and there are anecdotal reports of sea turtles opportunistically feeding on discards in the shrimp trawl fishery. It is unclear whether the turtles were drawn to the vessel because of the discards or just happened to be in the same place as the vessels at the same time. At this time, NMFS has no evidence to refute or support the possibility that discards may be attracting sea turtles to scallop vessels. Sea turtles that may be attracted to discarded viscera might disperse away from fishing vessels if the practice is prohibited. Alternatively, these turtles may remain in the fishing area and feed on natural prey in the benthos. Therefore, it is not clear that a

prohibition on the discard of sea scallop viscera would reduce the risk of interaction.

NMFS is continuing to investigate additional modifications to reduce injury and mortality to sea turtles resulting from an interaction with sea scallop dredge gear. See the response to Comment 3 for additional information.

Comment 9: Regulations result in scallop fishing occurring in smaller areas which creates a non-natural food supply congregating sea turtles. Reduce the non-natural food supply by changing the regulations.

Response: The distribution of sea scallop fishing effort is a function of the condition of the resource. Vessels fish where the sea scallop catch is most efficient. Certain management measures may amplify this as with more restrictive measures, there is more interest in maximizing the yield compared to the effort. While vessels may fish the same areas, NMFS has no evidence to refute or support the possibility that discards from the sea scallop fishery may be attracting sea turtles to those areas (see response to Comment 8).

Comment 10: NMFS could substantially mitigate the impacts of the scallop dredge fishery on sea turtles through narrowly crafted time-area closures. An analysis of potential closure areas was submitted with the comment. Recommended closures include the Elephant Trunk Access Area from June 1 to October 31, the eastern portion of the Hudson Canyon Access Area and the area immediately east from July 1 to October 31, and the Delmarva Area from June to October. Time-area closures must be considered in this rulemaking.

Response: During the original rulemaking to require chain-mats in the Atlantic sea scallop dredge fishery, NMFS evaluated a seasonal closure of the mid-Atlantic in order to reduce the impacts on sea turtles from sea scallop dredge activity. However, given the uncertainty of the extent of the area in which interactions occur, the broad extent of the closure, and the potential displacement of effort to other fishing areas, this alternative was rejected at that time (71 FR 50361, August 25, 2006).

Framework 18 to the Scallop FMP implemented a closure of the Elephant Trunk Access Area (ETAA) during September and October to reduce potential interactions between the sea scallop fishery and sea turtles (71 FR 33211, June 8, 2006). On November 8, 2007, the New England Fishery Management Council (Council) submitted Framework 19 to the Scallop FMP to NMFS. In Framework 19, the Council recommends removing the seasonal closure for the ETAA. NMFS has published a proposed rule for Framework 19 that indicates that NMFS would disapprove the Council's recommended closure, thereby leaving the September through October closure in place (73 FR 14748). As there is no new information that justifies eliminating the seasonal closure, and due to concern relating to the potential bycatch of sea turtles if this closure were eliminated, the Council's recommendation to eliminate the ETAA seasonal closure will be disapproved. NMFS would continue to monitor the effectiveness of this closure and adjust management measures as appropriate.

As described in the Final EA, a consistent set of variables has not yet been found for forecasting sea turtle bycatch with sea scallop dredge gear. NMFS is continuing to work towards identifying ''hot spots'' of sea turtle bycatch in the mid-Atlantic. NMFS is currently conducting a study to examine various environmental variables in relation to sea turtle takes in multiple NER fisheries, including the sea scallop fishery. This project integrates data from a suite of satellite sensors, electronic tags, fishery observer logs, and high-resolution coupled physical-biological models to quantitatively characterize sea turtle habitat in a variety of oceanic environments. The end product will be a set of decision support tools that forecast the likelihood of sea turtle-fishery interactions.

Comment 11: NMFS should expeditiously issue new and adequate regulations to protect loggerhead sea turtles from sea scallop dredging before scallop dredging begins to take sea turtles in the spring.

Response: As described in the proposed rule and the EA for this final action, NMFS believes that the chain-mat modification will protect sea turtles from capture in the dredge bag and will, therefore, protect them from injury and mortality that results from such capture. Therefore, NMFS is issuing this final rule to minimize the impacts that would result from capture in the dredge bag. NMFS recognizes that sea turtles may be struck by the dredge gear as it is fished and that injuries and mortality may result from such an interaction. NMFS will continue to investigate and implement, as appropriate, measures to reduce interactions with sea turtles and/or the severity of interactions that do occur (see comment 3).

Comment 12: The reevaluation of the chain mat modification must be undertaken in the context that the south Florida nesting population is in perilous condition. The loggerhead sea turtle is no closer to recovery now than when it was originally listed.

Response: A detailed description of the status of the species can be found in the EA for this action, while a summary is provided here. A number of stock assessments (TEWG 1998, 2000; NMFS SEFSC, 2001; Heppell *et al.*, 2003) have examined the stock status of loggerhead sea turtles in the waters of the United States, but have been unable to develop any reliable estimates of absolute population size. Due to the difficulty of conducting comprehensive population surveys away from nesting beaches, nesting beach survey data are used to index the status and trends of loggerhead sea turtles (68 FR 53949, Sept. 15, 2003). There are at least five western Atlantic loggerhead nesting groups. These are the northern, south Florida, Dry Tortugas, Florida Panhandle, and Yucatan nesting groups. Genetic analyses conducted at the nesting sites indicate that they are distinct nesting groups (TEWG, 2000). The 5-year status review for loggerhead sea turtles (NMFS and USFWS, 2007) compiled the available information on mean number of loggerhead nests per year and, where available, the approximated counts of nesting females for each of the five identified nesting groups in the western North Atlantic.

Nesting survey data is important in that it provides information on the relative abundance of nesting, the estimated number of reproductively mature females in each nesting group, and the contribution of each nesting group to loggerhead nesting in the western Atlantic, overall. During the majority of the 1990s, the south Florida nesting group showed an increase in the number of nests of 3.6 percent annually from 1989–1998 (TEWG, 2000). However, in 2006, information was presented at an international sea turtle symposium (Meylan *et al.*, 2006) and in a letter to NMFS (letter to NMFS from the Director, Fish and Wildlife Research Institute, Florida Fish and Wildlife Conservation Commission, October 25, 2006) that the south Florida loggerhead nesting group was experiencing a decline in nesting. A trend analysis of the nesting data collected for Florida's Index Nesting Beach Survey program showed a decrease in nesting of 22.3 percent in the annual nest density of surveyed shoreline over the 17-year period and a 39.5-percent decline since 1998 (letter to NMFS from the Director, Fish and Wildlife Research Institute, Florida Fish and Wildlife Conservation Commission, October 25, 2006). Data collected in Florida in 2007 reveal that the decline in nest numbers has

continued as 2007 had the lowest nest count in any year during the period of 1989–2007 (FWRI, 2007). Standardized ground surveys of 11 North Carolina, South Carolina, and Georgia nesting beaches showed a significant declining trend of 1.9 percent annually in loggerhead nesting from 1983–2005 (NMFS and USFWS, 2007). In addition, standardized aerial nesting surveys in South Carolina have shown a significant annual decrease of 3.1 percent from 1980–2002 (NMFS and USFWS, 2007). The South Carolina data represents approximately 59 percent of nesting by the northern nesting group (Dodd, 2003). No surveys of the Dry Tortugas nesting group have been conducted since 2004. No trend was detected in the number of nests laid from 1995 to 2004 (excluding 2002 when surveys were not conducted); however, because of the annual variability in nest totals, a longer time series is needed to detect a trend (NMFS and USFWS, 2007). The Florida Panhandle nesting group has shown a significant declining trend of 6.8 percent annually from 1995–2005 (NMFS and USFWS, 2007). The Yucatan nesting group is characterized as having declined since 2001 (NMFS and USFWS, 2007).

Unlike nesting beach data, in water studies of sea turtles typically sample both sexes and multiple age classes. As is the case with nesting data, there are caveats for using results from in water studies to assess sea turtles abundance and the trend of turtle populations, overall. Nevertheless, these can be useful for gaining information on the species away from the nesting beach. As was described in a 1999 report of the IUCN/SSC Marine Turtle Specialist Group, although sea turtles spend at most 1 percent of their lives in or on nesting beaches, approximately 90 percent of the literature on sea turtle biology is based on nesting beach studies (Bjorndal, 1999). In water studies have been conducted in some areas of the western Atlantic and provide some data by which to assess the relative abundance of loggerhead sea turtles and changes in abundance over time (Maier *et al.*, 2004; Morreale *et al.*, 2004; Mansfield, 2006). Maier *et al.* (2004) used fishery-independent trawl data to establish a regional index of loggerhead abundance for the southeast coast of the United States (Winyah Bay, South Carolina to St. Augustine, FL) during the period 2000–2003. A comparison of loggerhead catch data from this study with historical values suggested that in-water populations of loggerhead sea turtles along the southeastern United States appear to be larger, possibly an order of magnitude higher than they were 25 years ago (Maier *et al.*, 2004). However, reduced catch rates in the smaller size classes was also noted over the four year time period (Maier *et al.*, 2004). A long-term, on-going study of loggerhead abundance in the Indian River Lagoon System of Florida found a significant increase in the relative abundance of loggerheads over the last 4 years of the study, but there was no discernable trend in abundance over the 24-year time period of the study (1982–2006) (Ehrhart *et al.*, 2007). Sea turtles captured in pound nets in the fall and early winter in North Carolina were sampled from 1995–1997 and 2001–2003 to monitor trends in catch rates. The catch rates of loggerhead sea turtles increased significantly at a rate of 13 percent per year during the study period (Epperly *et al.*, 2007). There was also a significant increase in the size of loggerhead sea turtles over time (Epperly *et al.*, 2007).

In contrast to these studies, Morreale *et al.* (2004) observed a decline in the incidental catch of loggerhead sea turtles in pound net gear fished around Long Island, NY during the period 2002–2004 in comparison to the period 1987–1992. No changes in size distribution were noted but only two loggerheads were captured from 2002–2004 and these were comparable in size to the larger turtles captured during the 1987–1992 period (Morreale *et al.*, 2004). Using aerial surveys, Mansfield (2006) also found a decline in the densities of loggerhead sea turtles in Chesapeake Bay over the period 2001–2004 compared to aerial survey data collected in the 1980s. Significantly fewer turtles ($p<0.05$) were observed in both the spring (May–June) and the summer (July–August) of 2001–2004 compared to aerial surveys in the 1980s (Mansfield, 2006). A comparison of median densities from the 1980s to the 2000s suggested that there had been a 63.2 percent reduction in densities during the spring residency period and a 74.9 percent reduction in densities during the summer residency period (Mansfield, 2006).

NMFS is undertaking a number of efforts in order to determine the status of loggerhead sea turtles. In November 2007, NMFS initiated a review of the status of loggerhead sea turtles to determine whether a petitioned action to classify the North Pacific or Pacific loggerhead sea turtles as a Distinct Population Segment (DPS) with endangered status is warranted, and whether any additional changes to the current threatened listing for the loggerhead sea turtle are warranted (72 FR 64585, November 16, 2007). This review is expected to be completed in the summer of 2008. NMFS also received a petition in November 2007 to designate loggerhead sea turtles in the western North Atlantic as a DPS with endangered status and to designate critical habitat for this population. The petition also requested that if the western Atlantic loggerhead sea turtle is not determined to meet the DPS criteria that loggerheads throughout the Atlantic be designated as a DPS and listed as endangered and that critical habitat be designated for it (Petition from Oceana and The Center for Biological Diversity to Carlos M. Gutierrez, Dr. William Hogarth, Dirk Kempthorne, and H. Dale Hall, November 15, 2007). On March 5, 2008, NMFS published a response to the petition (73 FR 11851). NMFS has convened a biological review team to review the status of the species to determine whether the petitioned action is warranted and to determine whether any additional changes to the current listing of the loggerhead turtle are warranted (73 FR 11851, March 5, 2008). The Recovery Plan for loggerhead sea turtles is currently being revised, and NMFS has convened a new loggerhead Turtle Expert Working Group (TEWG) to review all available information on Atlantic loggerheads. The TEWG is continuing to explore several hypotheses as to the decline in nest numbers observed in Florida. A final report from the TEWG is anticipated in 2008.

The information on the decline in the south Florida nesting group is detailed and considered in the EA for this action. This action is expected to mitigate to some extent negative impacts to sea turtles by reducing injury and mortality resulting from capture in the sea scallop dredge bag.

Comment 13: Two comments were received regarding reinitiation of consultation under section 7 of the ESA. One commenter stated that NMFS should reinitiate on all major U.S. fisheries interacting with sea turtles given the recent nest numbers for Florida. A second commmenter stated that the new rule should be subject to formal consultation to ensure that the scallop dredge fishery does not jeopardize the continued existence and recovery of the loggerhead sea turtle.

Response: As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained and if: (1) The amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that affect listed species or critical habitat in a manner or

to an extent not considered in the previous opinion; (3) the agency action is subsequently modified in a manner that causes an effect to listed species or critical habitat not considered in the previous opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. NMFS determined on November 2, 2007 that this action does not trigger the need to reinitiate consultation (memo from Patricia A. Kurkul to The Record, November 2, 2007).

Although this action does not trigger reinitiation of consultation, NMFS reinitiated ESA section 7 consultation on the Scallop FMP on April 3, 2007 as new information had become available on the take of sea turtles in the sea scallop trawl fishery (Murray, 2007). This consultation (March 2008) considered the effects of the sea scallop fishery as a whole, including the use of chain-mat modified gear. The comments related to reinitiating on other major U.S. fisheries that interact with sea turtles are not relevant to this action.

Comment 14: NMFS should consider ways for fishermen, working in conjunction with appropriate veterinary or rescue facilities, to bring injured turtles to these facilities for treatment.

Response: Currently, information regarding the transfer of injured turtles to appropriate rehabilitation facilities is included in the fishery observer training packets, including contacts for appropriate/authorized facilities from Maine to North Carolina. Observers are encouraged to make these arrangements for injured sea turtles as logistics and practicality allow, taking into account trip length and ability to transfer turtles quickly and safely. It is generally considered prohibitive if a turtle is taken during a multi-day trip, as a turtle with significant injuries would need to be transferred immediately, all resources to enable the transfer would be voluntary/donated, the receiving facility must be able to accept the case, and must agree to the transfer before a turtle is brought in. Vessels in the limited access fleet generally take extended trips of up to 12–20 days. Often, based on NMFS' experience with trained observers, the transportation of sea turtles to rehabilitation facilities is logistically challenging.

Regulations under 50 CFR 223.206(d) require fishermen who incidentally take turtles to return them to the water immediately (or after resuscitation) and prohibit the landing, offloading, or transhipping of incidentally caught sea turtles. At this time, fishermen should contact NMFS Northeast Regional Office to see if a Sea Turtle Stranding and Salvage Network member would meet the vessel and retrieve the turtle at sea or what other options may be available.

Comment 15: The requirement should be that the chain mat be created with ''any material'' to create openings of 14 inches (35.5 cm) or less. The chains are causing vessels to turn the engines harder using more fuel.

Response: The experimental fishery to test the modified gear used ⅜ inch hardened steel chain to create the chain mat (DuPaul *et al.*, 2004). This was the modification that was shown to be effective at preventing sea turtles from entering the dredge bag. As far as NMFS is aware, no other materials have been tested. NMFS cannot assume that all other materials would be as effective as chain at preventing sea turtles from entering the gear. Therefore, NMFS is requiring that chain be used over the opening to the dredge bag. The impacts of the chains on the efficiency of the dredge are discussed in the response to Comment 20.

Comment 16: Two comments were received on cumulative impacts. One commenter stated that there is a need to expeditiously address the cumulative impacts of U.S. fisheries on sea turtles given the recent nest numbers. The estimate of takes, and the authorized take, in fisheries has been revised upwards in recent year, and as new information becomes available increases in takes can be expected. NMFS must address these cumulative impacts if the decline of Atlantic loggerhead sea turtles is to be arrested. A second commenter stated that NMFS must ensure that the ESA and National Environmental Policy Act (NEPA) analysis considers cumulative impacts on loggerheads, including the threats from global climate change.

Response: The response to Comment 12 summaries the information on the recent nest numbers and the status of the species. Cumulative effects, including global climate change, on sea turtles were evaluated in the NEPA analysis for this action and under section 7 consultation on the continued authorization of the fishery. The EA for this action and the most recent Biological Opinion (NMFS 2008) should be referred to for the analysis.

NMFS continues to work to minimize negative impacts to sea turtles. NMFS has implemented measures to reduce fisheries impacts including restrictions on the use of gillnet gear and gear requirements in the Virginia pound net fishery, the pelagic longline fishery, and the shrimp and summer flounder trawl fisheries. As described in the response to Comment 3, NMFS is conducting research on gear modifications to minimize impacts from benthic interactions between sea turtles and sea scallop dredge gear. In addition, NMFS is considering amendments to the regulatory requirements for TEDs in the mid-Atlantic (72 FR 7382, February 15, 2007). NMFS continues to work to identify and address threats to sea turtles.

Comment 17: Two commenters stated that the configuration should be defined as a fixed number of chains based on dredge width for ease of compliance and enforcement. In addition, one commenter stated that the regulation can be only enforced by measuring all sides of the squares, the current configuration presents too great a risk of unintentional violations, and is a safety issue. To measure the chain mat at sea, enforcement must either disengage the mats and lay them out, measure a suspended dredge, which is unsafe for all, or disengage the dredge and turn it up. None of these are practicable and all take away from fishing opportunities.

Response: NMFS Office of Law Enforcement (OLE) and the United States Coast Guard (USCG) are confident that the regulation is enforceable regardless of whether the requirement is for a specified number of chains or for an opening of less than or equal to 14 inches (35.5 cm). We have discussed the issue of safety with both OLE and the USCG and they have not raised any concerns. Measurements may be taken with the gear on deck if measuring a suspended dredge is determined at the time to present a safety issue. As with any gear modification of this type (i.e., mesh size requirements), it is not necessary that enforcement measure each and every opening, but rather that they measure a subset of openings to determine whether the gear is in compliance.

NMFS recognizes that as the chains stretch and wear (''stretch''), they become longer and the openings may exceed 14 inches (35.5 cm), even if the gear was originally configured to meet the requirement. This may result in fishermen being concerned about unintentional violations resulting from larger openings due to this stretch. The degree of stretch depends on a number of factors including the area in which the vessel is fishing and the type/quality of chain that the vessel uses to configure the gear. NMFS has limited information on the degree of stretch that may occur. For one of the interactions resulting in the capture of a sea turtle in the dredge bag in 2007 (see response to Comment 1), the openings in the chain mat were measured by the observer at the start of the trip and following the take. At the start of the trip, the openings were 12 inches (30.5 cm) to 14 inches (35.5 cm),

but by the tow in which the turtle was observed, some openings in the chain mat, particularly at the top of the bag and near the sweep, measured from 16 to 20 inches. The openings measured at the start of the trip and those measured after the take were not necessarily the same openings (memo from Pasquale Scida to The File, March 11, 2008). That is, the openings which measured 16 inches (40.6 cm) to 20 inches (50.8 cm) inches may have been greater than 12 inches (30.5 cm) to 14 inches (35.5 cm) measured at the start of the trip. This is the only trip on which measurements are available. However, there is anecdotal information from the observer program that indicates the stretch that may have occurred on this trip is not what is normally observed. Observers have noted that all the chains do stretch slightly. However, the stretch on this trip seemed excessive (memo from Pasquale Scida to The File, March 11, 2008). NMFS will continue to work with the observer program to get additional measurements with which to better assess the degree of stretch and to evaluate the implications of the observed stretch. NMFS has advised fishermen that they need to be aware of this stretch and take it into consideration when configuring the gear.

Comment 18: The design of the modified gear was driven by the desire to balance the need to protect turtles with an objective and easy to enforce standard and was structured to balance dredge efficiency with the prevention of turtles entering the dredge. There was no expectation of absolute uniformity in the rectangles created. There is no basis for the statement ''As indicated in the final report, the number of chains in and of itself was not what drove the configuration tested. Rather it was the target size of the openings that drove the overall configuration.''

Response: According to the final report on the experimental fishery, the design criteria that were used in developing the chain mat were to: (1) Prevent turtles of greater than 24 inches (60.7 cm) from entering the dredge bag (6 ticklers by 11 or 13 up and downs); (2) decrease the size and weight of the chains to keep impacts low; (3) increase chain hardness (grade) to minimize wear and stretching; (4) place tickler chains on top of up and down chains (allows gear to slide rather than dig); (5) use rubber cookies at each shackle to prevent wear; and (6) minimize bottom impacts by keeping gear light (DuPaul *et al.*, 2004). The report does not include criteria related to enforcement. The first criterion in the gear design is to prevent turtles of a certain size from entering the dredge bag. This criterion notes a particular number of chains, presumably the number of chains needed to achieve this objective. During initial testing, the gear was hung in typical rock chain fashion which resulted in as much as a 32-inch (81.3-cm) diagonal between connection points. To correct for this, the design was modified to hang the horizontal chains straight across the opening (DuPaul *et al.*, 2004). This information indicates that the gear was designed to achieve a particular spacing between the chains. That is, the criteria was to create an opening sufficiently small enough to prevent sea turtles of a certain size from entering the gear. While there may not have been an expectation of uniform openings, it is clear that the openings need to be small enough to prevent sea turtles from passing through the chains into the dredge bag. Based on the information provided to NMFS on the size of the openings in the experiment to test the chain-mat modified gear and the species identification and size of sea turtles taken in this fishery, NMFS believes that openings of 14 inches (35.5 cm) or less will prevent most sea turtles from entering the dredge bag and will prevent the injury and mortality resulting from such capture. Under these requirements, the openings do not need to be uniform but cannot be larger than 14 inches (35.5 cm) per side.

The criteria also included decreasing the size and weight of the chains in order to keep impacts low (criteria 2 and 6). The report does not include information on the type of impacts being considered in criteria 2 and it is possible that this criteria included impacts related to dredge efficiency. However, as described in the response to Comment 20, the weight of the chain-mat modified gear is not substantially different than the unmodified gear. Therefore, NMFS does not anticipate that the additional weight of the chain mat will significantly impact the dredge efficiency. In addition, the openings required in the regulation are based on the experimental fishery to test the chain mat modified gear (see response to Comment 19).

Comment 19: A fixed number of chains based on dredge width is the only configuration that has been rigorously tested on a variety of dredge widths and has been proven effective in eliminating virtually all incidence of sea turtles becoming entrapped in the dredge. If the agency believes a different design would be more efficacious, it should test such gear to account for all factors relevant to turtle takes, and collect empirical data on other conservation or economic impacts. There is no data showing the impacts of chains configured to comply with the 14-inch (35.5-cm) requirement. The commenter urges NMFS to re-adopt a fixed number of chains based on dredge width as the change to the 14-inch (35.5-cm) requirement is based on a misinterpretation of the science upon which the gear is based, has unknown implications for sea turtle protection, conservation and economic impacts, and presents an enforcement concern.

Response: The size of the opening created by the chains is the important factor in preventing sea turtles from entering the dredge bag, not the number of chains. Although the size of the openings is not provided in the final report (DuPaul *et al.*, 2004), the information provided to NMFS during the development of the chain mat requirements was that the configuration tested during the experimental fishery had openings that were less than 14 inches.

The experimental fishery was conducted with 11-ft (3.35-m), 14-ft (4.27-m), and 15-ft (4.57-m) dredges. The 14-ft (4.27-m) and 15-ft (4.57-m) dredges had 11 vertical chains and 6 horizontal chains; while the 11-ft (3.35-m) dredge had 9 vertical chains and either 5 or 6 horizontal chains. The table included in the original rule included dredges binned into four groups: less than 10 ft (3.05 m), 10 ft (3.05 m) to less than 11 ft (3.35 m), 11 ft (3.35 m) to 13 ft (3.96 m), and greater than 13 ft (3.96 m). Dredges of several widths fall into each grouping. Therefore, only a subset of the dredge widths included in the table were actually tested in the experimental fishery. Two of these dredge widths tested fall into the bin for dredges greater than 13 ft (3.96 m). The number of horizontal chains included in the original chain-mat regulation for an 11-ft (3.35-m) dredge based on dredge width was 5. However, the 11-ft dredge tested in the experiment used 5 or 6 horizontal chains. If the 11-ft dredge in the experimental fishery used 5 horizontal chains, this configuration would also have been tested.

In addition, dredges of the same width may be configured differently. As such, the same number of chains on two dredges with the same width, may not result in the same size openings. For example, the distance between the cutting bar and the sweep is known to vary by up to 1.7 ft (0.5 m) for certain dredge widths (NMFS 2007). Given the variability in the distance between the cutting bar and the sweep, it would be difficult to specify a number of horizontal chains that would achieve the desired spacing. As noted above, the chains wear and become longer with

time, and this wear depends on a number of factors including the chain used and the bottom habitat fished. This variability may be difficult to account for in a table. As a result of these factors, the rule does not define the configuration based on a number of vertical and horizontal chains required, but by the desired size of the opening, which is the important factor for sea turtle conservation. Based on the results of the experimental fishery and information on the sea turtles observed taken in this fishery, NMFS has determined that a spacing of 14 inches (35.5 cm) or less will prevent most sea turtles from being captured in the dredge bag. Enforcement and safety are addressed in the response to Comment 17 and conservation and economic impacts are addressed in the response to Comment 20.

Comment 20: As a precaution, fishermen are rigging the chain mats with rectangles with sides of no more than 11 inches (27.9 cm) or 12 inches (30.5 cm) to avoid being found in violation. As a result, the data collected during the experimental fishery is not applicable. The economic impact will greatly exceed that currently assumed due to greater loss of scallops, increased fuel consumption due to the heavier mat and increased drag, additional loss of fishing time while emptying the bags, and increased stretching/breaking of the chains. Vessels may tow longer to offset the loss of scallops, increasing bottom time which has habitat implications and may have unintended consequences on protected species.

Response: The total weight of a sea scallop dredge with a width of 15 ft (4.57 m) is approximately 4,500 lbs (2041 kg) for the dredge frame, chain bag, and club stick. Weights may vary slightly due to differences in materials and configuration. The weight of the chain mat is estimated to be between 56 lbs (25.4 kg) for a 10-ft (3.05-m) dredge and 147 lbs (66.7 kg) for a 15-ft dredge (4.57-m)(e-mail from Henry Milliken (NEFSC) to Richard Merrick (NEFSC), October 1, 2004). Assuming 20 percent additional chains and shackles would be required for some vessels to comply with the 14-inch (35.5-cm) requirement (a conservative overestimate) (memo from Ellen Keane (NERO) to The File, October 3, 2007), the range of weights would increase by 11 lbs (5 kg) for a 10-ft (3.05-m) dredge and 29 lbs (13 kg) for a 15-ft (4.57-m) dredge. The weight of the chain mat, and the additional chain required to configure the openings to the 14-inch (35.5-cm) requirement, is relatively small compared to the weight of the dredge. Some vessels that choose to rig their gear at 11 inches (27.9 cm) or 12 inches (30.5 cm) to account for stretch in the chains may need to use additional chain. However, this is not expected to substantially increase the weight of the chain-mat modified gear. As the weight of the modified dredge is not significantly different from an unmodified dredge, the additional chain is not expected to substantially impact the efficiency of the gear.

The economic costs of the chain mat requirements include costs required to configure and maintain the gear, costs due to loss of catch, and costs associated with a loss of efficiency. The costs to configure the gear result from the cost of materials and the cost of labor. The cost of materials and labor is estimated from approximately $200 for a dredge less than 10-ft (3.05-m) up to $460 for a 15-ft (4.57-m) dredge. These costs will vary depending on the type and size of chain used. Maintenance of the gear will be required as the chain mats wear. Vessels that configure the opening at or near the 14-inch (35.5 cm) requirement may need to readjust the gear more frequently than vessels that configure the opening less than 14 inches (35.5 cm) to allow for wear. In addition, the longevity of the chain is affected by numerous factors including the type of chain used, the bottom fished, and the configuration of the gear. All of these may affect the frequency with which the chains need to be replaced. Vessels fishing on sandy bottom will likely need to replace the gear less frequently than vessels fishing on rockier bottom. Information from the observer program indicates that the chains do stretch and break. One observer noted that the chains need to be re-adjusted once per a trip to once every three trips (memo from Pasquale Scida to The File, March 11, 2008). In addition, the observer logs indicate that the links/shackles connecting the chains break, but that these are relatively simple and quick repairs. If a high-quality chain is used, NMFS anticipates that the chain mat would need to be replaced in its entirety over the course of a fishing season. It is unlikely that the gear will be replaced all at once as broken links and shackles will be repaired as they occur over the course of the year. Nevertheless, the vessel would incur the costs associated with configuring gear each year. This replacement cost is considered in the EA/FRFA/RIR for this action.

In assessing the impacts of requiring this gear modification, the analysis of the cost due to a loss of catch is based on the average loss of scallops that was observed in the experimental fishery. Although measurements of the opening are not included in the final report on the experiment (DuPaul *et al.*, 2004), all of the information provided to NMFS during the rulemaking indicated that the size of the openings tested was less than or equal to 14 inches (35.5 cm), ranging from 11 to 14 inches (27.9 to 35.5 cm). The data from the experimental fishery shows that scallop catches were highly variable from vessel to vessel and trip to trip, ranging from a −30.88 percent to a 7.28 percent difference, with the average loss of sea scallop catch approximately 6.7 percent (DuPaul *et al.*, 2004). The researchers believe that this variability will decrease as vessels became more familiar with the gear (DuPaul *et al.*, 2004). The size of the openings tested in the experimental fishery is the size of the openings that are required under the current regulations and this final regulation. It is possible that the loss of scallops may vary if the openings in the chain mats are configured significantly smaller than those tested in the experiment. However, there is no data available at this time to evaluate this difference. Therefore, the loss of catch is based on the experimental fishery.

Other potential costs are those due to increased drag, weight, and tow times, as well as increased fuel consumption, which will result from adding chains to the dredge. As described above, the difference in weight between an unmodified dredge and a chain-mat modified dredge is not substantial and NMFS does not anticipate any significant costs resulting from extra weight on the gear. As described above, the size of the openings is based on the experimental fishery to test the modified gear. The final report on the study does not indicate that the dredge bag was more difficult to empty. It is expected that as fishermen become more familiar with the gear, difficulties that may be associated with dumping the bag will decrease. In general, the chain-mat modified dredge with openings of 14 inches (35.5 cm) or less has been required in the Atlantic sea scallop dredge fishery for one fishing season, with minimal reports of economic disruption that are described herein. More detailed information on the analysis can be found in the EA/RIR/IRFA for this action.

The area swept by the modified and the unmodified dredge gear is the same. However, as described in the Final EA, an increase in disturbance to bottom sediments is expected whenever the chain mats are used. Vessels are expected to continue to fish in the same areas, but a loss of scallops may be offset by increasing the tow time. The sediment type in the regulated area has a rapid recovery time and impacts to habitat are expected to be minimal. In

addition, the researchers believe that this variability in catch retention will decrease as vessels became more familiar with the gear (DuPaul *et al.*, 2004). Thus, as vessels become more familiar with fishing the chain-mat modified gear, these impacts will be even further minimized. As described in the response to Comment 24, it is not known whether turtles interact on the bottom or in the water column. Therefore, it is not known whether the increased tow times would result in a greater risk of interaction. It is reasonable to assume that interactions are occurring both on the bottom and in the water column, but the proportion of interactions occurring in each of these cannot be quantified. While increased tow times may result in an increased risk for sea turtles, this risk is limited by the facts that the average loss of scallops was fairly small ~6.7 percent) and that as fishermen become more familiar with the gear, it is expected that the chain-mat modified dredge will be more comparable to the unmodified dredge. This will lessen the need to offset a loss of catch. While the loss of catch may be greater than that observed in the experiment if fishermen rig the gear significantly different than that tested in the experiment, NMFS cannot quantify what this loss would be. From the information available, it appears that vessels are rigging the gear in the same manner that was tested (*i.e.*, approximately 11- to 14-inch (20.9–35.5 cm) openings).

Comment 21: Vessels have received violations for broken chains. We recommend that NMFS add a requirement that any broken chains be fixed immediately, but make it clear that a broken chain itself cannot support a violation. A violation could be given if a vessel deploys a dredge with a broken chain.

Response: NMFS recognizes that chains and links/shackles will break during normal fishing activity. These breaks must be repaired before redeploying the gear. In addition, the gear must be readjusted as necessary to ensure that the openings maintain a spacing of 14 inches (35.5 cm) or less. Broken chains have been noted during boardings by enforcement agents. NMFS enforcement agents and the USCG have discretion when conducting boardings and can take into account whether the captain or crew is in the process of repairing broken chains.

Comment 22: One commenter supported the transiting provision; while a second commenter was opposed to this provision. This commenter objected to the limitation that requires vessels that transit the area and fish exclusively north of the line to install chains before transiting home. The commenter stated that allowing vessels to stow their gear while in transit would not implicate any reasonable enforcement concern. It is unlikely that vessels fishing in the mid-Atlantic would undertake the labor intensive action of removing the chains to steam home, but in the event they did, no harm exists as long as the dredges are stowed and unavailable for use. Vessels fishing in the mid-Atlantic could be identified easily through Vessel Monitoring System (VMS) data.

Response: With the clarifications to the existing regulatory text, vessels that transit through areas south of 41° 9.0′ N. latitude would be required to use chain mats while fishing north of that line. That is not the intent of the regulation as sea turtle interactions north of the line are unlikely. Therefore, NMFS has added a transiting provision that would exempt vessels from the chain mat requirements provided that there are no scallops on board and the gear is stowed. NMFS recognizes that this provision requires vessels fishing north of the line to either land the catch north of the line or install chain mats before transiting back through the regulated area. This provision is necessary as vessels that fish north of the line on a trip cannot be distinguished from those that fish south of the line once they transit south. Some have suggested that VMS can be used to identify where these vessels were fishing for the purposes of enforcing this regulation. At this time, regulations require scallop vessels to be responsible for position reports ''at least twice per hour.'' Although it is sometimes possible to determine a vessel's activity (such as fishing) from half-hour polls, half-hour polls alone often do not provide a full picture of where the vessel was between polls. Therefore, increased polling would be necessary to determine where the vessel was fishing. Increased polling is not possible because the current technology provided by the VMS providers does not support changing the reporting rate by fishery declaration. Before a vessel starts a trip, it must declare through VMS whether the trip will be general category or limited access and the area in which it will fish. The vendors do not have the capacity to sort through the declarations and target polling intervals accordingly.

Comment 23: NMFS must withdraw and re-evaluate the proposed rule, including revising the NEPA analysis, to take into account the status of loggerheads and the apparent failure of the turtle chains.

Response: As described in the response to Comment 1, the chain-mat modification has not failed, but rather has been improperly implemented in some cases. This has resulted in the capture of sea turtles in the dredge bag. The available information shows that, when properly implemented, the gear modification will prevent most captures and injuries resulting from such capture. In evaluating the impacts of this gear modification, the EA has taken into account the status of loggerheads (see response to Comment 12).

Comment 24: It is not known what happens when turtles interact with the chain mat modified dredge and there is a significant risk that the chains do not reduce take, but simply change the nature of the interaction. The proposed action may do very little to reduce mortality and injury to sea turtles. NMFS admits that the chain mat configuration would not lessen the number of sea turtles taken, injured, or killed by the dredge on the sea floor. It stands to reason that a significant number of the sea turtles that are seriously injured and end up dying are caught on the sea floor as the dredge is towed on the sea floor for far more time than it is hauled up to the boat through the water column. The EA does not appear to analyze how often injuries occur from interactions with the dredge in the water column, but the implication is that even without the turtle chains, such interactions are unlikely.

Response: NMFS recognizes the uncertainty regarding whether sea turtles interact with sea scallop dredges as the dredge is dragged along the bottom, as the dredge is hauled back, or both. It takes approximately 1 minute to set a dredge and approximately 10 minutes to haul back, dump the catch, and reset the gear. For the remainder of the haul, the gear is on the bottom. However, it is not known where sea turtles are encountering the gear. It is likely that sea turtles are interacting with the gear both in the water column and on the bottom. Sea turtles have been observed in the area in which sea scallop gear operates and they have been seen near scallop vessels when they are fishing or hauling gear. In addition, sea turtles are known to forage and rest on the sea floor as part of their normal behavior. The condition of sea turtles observed taken in the sea scallop dredge fishery ranges from alive with no apparent injuries to alive and injured to fresh dead. Some of these injuries have been reported to occur after the gear has been brought on-board the vessel (DuPaul *et al.*, 2004; NEFSC, FSB, Observer Database). As described in the EA, NMFS believes that interactions

between sea turtles and sea scallop dredge gear that occur on the bottom are likely to result in serious injury to the sea turtle. Based on this assumption, NMFS believes that the unharmed/slightly injured turtles observed captured in the sea scallop dredge bag follow an interaction with sea scallop dredge gear in the water column. The most recent Biological Opinion anticipates that up to 929 loggerhead sea turtles will be captured by sea scallop dredge gear biennially, and that up to 595 of these may sustain serious injury or mortality (as defined in the NMFS Northeast Region ''Serious Injury Determinations for Sea Turtles Taken in Scallop Dredge Gear—Working Guidance'').

Data do not exist on the percentage of sea turtles interacting with the chain mat-modified gear that will be unharmed, sustain minor injuries, or sustain serious injuries that will result in death or failure to reproduce. However, there are several assumptions that can be made to assess the degree of interaction. With the chain mat installed over the opening to the dredge bag, it is reasonable to assume that sea turtles, which would otherwise enter the dredge bag, will instead come into contact with the chain mat at least. NMFS recognizes that this modification may not reduce the number of sea turtles interacting with sea scallop dredge gear, but it is reasonable to assume that the modification will reduce mortality and the severity of injury following interactions that occur in the water column. Some of the seriously injured sea turtles probably obtained those injuries after being caught in the water column by unmodified gear, because the turtles were captured in the dredge bag. After an interaction in the water column, severe injuries and mortality to sea turtles following capture in a dredge bag without the chain mat configuration likely result from crushing by debris in the dredge bag, dumping of the turtle on the vessel's deck, or crushing them with falling gear. NMFS does not have information on the proportion of takes occurring in the water column. However, preventing the turtles from entering the dredge bag will prevent injuries resulting from such capture.

With the chain mat in place, it is reasonable to assume that the sea turtles on the sea floor would still interact with the gear, but that the nature of the interaction would be different. With the modified gear, the sea turtles may still be hit by the leading edge of the frame and cutting bar and would likely be forced down to the sea floor rather than swept into the dredge bag. Since the turtles are not being swept into the bag, they could be run over by the dredge bag and club stick. At this point, the turtle will have likely already been hit and run over by the cutting bar and the leading edge of the dredge frame, which constitutes a substantial weight.

As described in the response to Comment 3, NMFS worked with industry to evaluate a dredge designed to minimize impacts from interactions with a sea turtle encountered on the bottom (NMFS, 2005; Milliken *et al.*, 2007). The video from the 2005 study did show that it is possible that sea turtles encountering the dredge on the bottom may become caught on the chains after being hit by the leading bar of the dredge. However, this follows the turtle being struck by the leading edge of the dredge during which it is likely to have sustained serious injuries.

NMFS has made the conservative assumption that a turtle in a bottom interaction sustains serious injuries on the bottom regardless of whether the chain mat is used. Under this conservative assumption, there would not be a benefit from the chain mat for bottom interactions. This assumption, however, may be too conservative in that it is possible that turtles in a bottom interaction may only receive minor injuries. In the unlikely scenario of a turtle receiving only minor injuries following a bottom interaction, the chain mat modification would prevent serious injuries that result from capture in the dredge bag (i.e., injuries from debris in the bag, forced submergence, dropping on deck, or crushing by the dredge). A detailed description the assumptions made and the assessment of the interactions can be found in the EA on this action.

The chain mats have been noted in four reported interactions. During the pilot study to test the chain-mat modified gear, a sea turtle was reported on the chain mat, subsequently swimming away as the gear was hauled to the surface. The NEFSC FSB has documented other interactions where the sea turtle is observed on the dredge gear, swimming away as the gear nears/breaks the surface. NMFS has no indication that this type of interaction would result in serious injury. The sea turtle may be held against the gear by water pressure as the gear moves through the water. Once the pressure is relieved, the animal is able to swim away. In 2007, two sea turtles were observed captured in the dredge bag. As described in the response to Comment 1, the gear modification was improperly configured in each of these cases, resulting in the capture in the dredge bag.

In 2007, a sea turtle was reported as being caught between the chains and the dredge, on the outside of the chain mat. This animal was unable to swim away and was brought aboard the vessel. It is not known exactly where or how the turtle was caught/hung up in the gear nor is it known whether the chain mat contributed to the interaction or the injuries resulting from the interaction. It is also not known whether this interaction occurred on the sea floor or in the water column. NMFS is not aware of any other interactions of this nature and it is possible that this interaction was a unique event on an individual haul. NMFS will continue to work with the observers to gain a better understanding of how sea turtles may be interacting with other parts of the dredge gear (i.e., outside of the dredge bag) and to determine whether this interaction was, in fact, a unique event.

Comment 25: In their comments on the original chain mat regulation, one commenter stated that the EA for the August 2006 rule contends that the chain mat modification would significantly benefit sea turtles and that the characteristics of the geographic area, the presence of loggerhead sea turtles, indicate the need for an Environmental Impact Statement. They also state that the action considered in the EA is highly controversial, highly uncertain, and creates a significant precedent.

Response: The EAs on the chain mat requirements support a finding of no significant impact. There is expected to be a benefit to sea turtles by reducing significant injury and mortality following a take in the water column; however, the degree of benefit is limited given that the installation of a chain mat would only reduce the severity of injuries resulting from a portion of possible takes. No unique characteristics of the geographic area were identified. The presence of loggerhead sea turtles in the mid-Atlantic is not a unique characteristic of the area. The gear modifications are limited in geographic area and time and are implemented in an effort to facilitate the coexistence of fishing activity and sea turtles. These factors restrict the scope of the effects. This action is not highly controversial given that the action is designed to benefit sea turtles, it would have a relatively small impact on the fishing industry, and the industry has petitioned NMFS for a similar action, albeit over a shorter time period each year, slightly different geographic area, and for a fixed number of chains.

While there is not perfect information available on the nature of the interaction between sea scallop dredge gear and sea

turtles, NMFS has made reasonable assumptions in evaluating the risks and benefits of this action. The best available scientific information shows that the use of the chain mat will prevent most sea turtles from entering the dredge bag and injuries ensuing from such capture. The action also does not set a significant precedent as gear modifications are a commonly used tool to reduce the severity of interactions between fishing gear and sea turtles.

Comment 26: The proposed action could have profound adverse effects on efforts to protect loggerhead sea turtles and thus on loggerhead turtle populations. Without video monitoring, no one will know how many loggerhead turtles were taken, injured, and killed underwater, an accurate estimate of sea turtle takes would be impossible, and neither individuals nor the agency would be able to assess whether these takes may exceed the incidental take statement. Deploying adequate monitoring for sea turtle takes must be considered and adopted.

Response: NMFS recognizes that interactions between sea scallop dredge gear and sea turtles are likely to occur and that these interactions may not be observed from on deck. As described above, NMFS will continue to use observer information, fishing effort data, and other data, as available, to monitor the fishery and its possible effects on sea turtles. NMFS will use observer data to continue to evaluate the take of sea turtles in other parts of the dredge (e.g., the forward parts of the frame and on top of the gear) as well as to better understand stretch and breakage in the chain mat gear. NMFS has developed a methodology to assess compliance with the ITS.

Prior to the chain mat requirement, observer coverage was used as the principal means to estimate sea turtle bycatch in the scallop fishery and to monitor incidental take levels provided in biological opinions for the scallop fishery. However, the use of chain mats on scallop dredge gear is expected to greatly reduce the likelihood that sea turtles struck by or incidentally swimming into scallop dredge gear would enter the bag and be carried to the surface (70 FR 30660, May 27, 2005; 71 FR 50361, August 25, 2006; 72 FR 63537, November 9, 2007). Injuries to sea turtles that occur as a result of the turtle being struck by the dredge gear underwater will continue to occur but will not be observed unless the turtle is small enough to pass between the chains and enter the dredge bag or is otherwise caught on the dredge frame and carried to the surface. Based on information provided by the NEFSC on fishery dependent and fishery independent approaches to monitoring bycatch (memo from John Boreman to Patricia A. Kurkul, March 6, 2006), NERO concluded that a method does not currently exist for enumerating sea turtle taken by chain-mat equipped scallop dredge gear that meets the NEFSC's definition of a scientifically robust and accurate take estimate and the guiding principles for the preparation of biological opinions provided in the Final ESA Section 7 Handbook developed jointly by the Fish and Wildlife Service and NMFS (memo from Patricia A. Kurkul to The Record, April 5, 2006; NMFS, 2008). In the absence of a method for enumerating most takes to monitor the ITS on the scallop dredge fishery, NMFS has developed a method of monitoring the fishery, as a proxy. Specifically, NMFS will use dredge hours as a surrogate measure of actual takes, and find that the ITS provided in the Biological Opinion has been exceeded when the fishery operates in a manner that, based on the best available information, would reasonably likely result in greater sea turtle interactions with scallop dredge gear than what is estimated to have occurred in 2003 and 2004 (NMFS, 2008). A detailed description of the approaches considered and the methodology chosen to monitor sea turtle takes in the dredge component of the fishery are included in the Biological Opinion and the associated memoranda (NMFS, 2008; memo from John Boreman to Pat Kurkul, March 6, 2006; memo from Patricia A. Kurkul to The Record, April 5, 2006).

As described previously, there have been several projects designed to look at the details of sea turtle-sea scallop dredge interactions (DuPaul *et al.*, 2004; Smolowitz *et al.*, 2005; Smolowitz and Weeks, 2006; Milliken *et al.*, 2007). It is evident from these studies that using video to document the specific nature of sea turtle-sea scallop dredge interactions, in general, and sea turtle-chain mat interactions specifically, is logistically difficult given the low interaction rate. To date, no sea turtles have been documented on video used in the commercial fishery. Additional difficulties identified through these studies include low visibility due to water clarity and available light, improper focus, inappropriate camera angle, and the range of viewing field. Requiring all scallop dredges using the modification to carry observers and monitor underwater interactions with video cameras may provide some additional information on interactions between sea turtles and scallop dredges. However, given the low rate of interaction and the technical challenges of underwater video, it is not clear that this approach would provide sufficient information to understand the nature of these interactions.

In addition, this level of coverage is infeasible at this time given existing resources. The video would need to be reviewed by the observer or NMFS personnel upon completion of the trip. If the observer was to review the video in real-time, they would likely be unable to collect all the information, including discards, biological information on the catch, and gear performance and characteristics, that is currently collected and utilized by NMFS. Given the total dredge hours in the mid-Atlantic, review of the video taken would require additional resources. NERO has investigated the feasibility of using video technology on a subset of vessels to monitor sea turtle-sea scallop dredge interactions and found that, at this time, video monitoring is not feasible. The use of video monitoring is discussed in detail in the most recent Biological Opinion (NMFS 2008).

Despite the challenges associated with using video to document interactions between sea turtles and sea scallop dredges, NMFS does plan to continue to collect video in conjunction with other gear projects. These projects may shed light on how to overcome the difficulties of using video to monitor sea turtle behavior and interactions with gear.

Comment 27: NMFS should put in a cap system that would have 100 percent observer coverage, including underwater video monitoring, and would shut down the fishery when they reached their capped level of turtle takes.

Response: As described in the response to Comment 26, 100 percent observer coverage with video monitoring is not feasible at this time. The anticipated level of take and the monitoring of the ITS are addressed through the section 7 process under the ESA.

Comment 28: Turtle chains are not scientifically validated. The information used to support the chain mat requirements is based on assumptions and guesswork, not scientific research and this information is inadequate. The studies on which the chain-mat modification is based are fatally flawed as they rely only on on-deck observations and so only addressed whether the chain mat could reduce the number of sea turtles caught in the dredge and did not address whether the chains reduced the number of sea turtle

takes, injuries, and deaths caused by scallop dredging. It is crucial to study the effects of the chains through underwater video monitoring.

Response: The experimental fishery used two paired dredges, one equipped with a standard dredge and one equipped with a modified dredge. This paired design is an industry standard in gear work and is utilized to minimize unaccountable environmental variation. The study involved over 3000 paired hauls, which resulted in enough statistical power to be able to detect differences in the turtle catches between the modified and the unmodified dredge. There was a statistical difference between turtle catches in the control and modified dredges (at alpha—0.05 level). NMFS recognizes that these studies relied on on-deck observations, and that sea turtles may be struck by the dredge while fishing near the bottom or while being hauled through the water column and not brought onboard. Unfortunately, these types of interactions cannot be quantified at this time because information on these interactions does not exist. However, the best available information does show that the chain mat modification prevents most captures of sea turtles in the dredge bag; thereby preventing injury and mortality that occur from such capture. Nevertheless, NMFS intends to use video in conjunction with other projects in an attempt to learn more about sea turtle-sea scallop dredge interactions (see response to Comment 3).

Comment 29: NMFS must obtain data on sea turtles' oceanic and neritic life history stages by conducting in-water surveys for all sea turtle species in order to accurately determine sea turtle abundance and population structure.

Response: NMFS concurs that data on sea turtles' oceanic and neritic life history stages from in-water surveys is important in determining sea turtle abundance and population structure. The preliminary findings of the TEWG offer recommendations regarding research that include a program to provide annual estimates of turtles in the NE and SE regions which would include a survey program to obtain estimates of total turtle in-water tagging studies and nesting beach tagging studies (memo from Nancy Thompson to James Lecky, December 4, 2007).

Classification

The rule has been determined to be not significant under Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis for the proposed rule, which was described in the classification section of the preamble to the proposed rule. The public comment period ended on December 10, 2007. One comment was received on the economic impacts of the proposed action (comment/response 20 in this final rule). No changes were made as a result of the comment.

NMFS has prepared a final regulatory flexibility analysis (FRFA) that describes the economic impact this final rule 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 the preamble, in the SUMMARY, and in the FRFA. A summary of the analysis follows:

The fishery affected by this final rule is the Atlantic sea scallop dredge fishery. The action requires all vessels with a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enter waters south of 41°9.0′ N. latitude, from the shoreline to the outer boundary of the EEZ to modify their dredge gear with a chain mat. Vessels transiting the area are exempt from this requirement provided that the gear is stowed and there are no scallops on board. According to Vessel Trip Report Data for 2003, 314 vessels fished in this area from May 1 through November 30. The economic analysis assumes that all 314 vessels are independently owned and operated. All 314 sea scallop dredge vessels are considered small entities.

This final rule does not contain any additional reporting, recordkeeping, or other similar compliance requirements.

The FRFA considered three alternatives. The preferred alternative (PA), Alternative 1, and the ''no action'' alternative. The PA, alternative 1, and the ''no action'' alternative were analyzed in the regulatory flexibility analysis and summarized in the proposed rule (72 FR 63537, November 9, 2007). NMFS selected the preferred alternative in the final rule (modification of the current regulatory requirements) because this alternative would clarify the regulatory language and add a transiting provision while maintaining the level of protection to sea turtles. The agency minimized impacts to small entities from the requirement to use chain-mat modified gear by limiting the requirements to the May through November time period and limiting the spatial extent to south of 41°9.0′ N latitude. NMFS rejected Alternative 1 (no chain mat requirement) because this alternative would leave sea turtles vulnerable to capture in the sea scallop dredge bag and to injury and mortality that may result from such capture. This alternative would have the least economic impact. NMFS also rejected the no action alternative. Although this alternative would provide the same level of protection to sea turtles as the preferred alterative, this alternative does not clarify the regulatory requirements or provide a transiting provision.

This final rule is consistent with the ESA and other applicable laws.

Literature Cited

Bartol, S. M., J. A. Musick, and M. L. Lenhardt. 1999. Auditory evoked potentials of the loggerhead sea turtle (*Caretta caretta*). Copeia 1993(3):836–840.

Bjorndal, K. A. 1999. Priorities for research in foraging habitats. Pp. 12–14. In: Eckert, K.L., K.A. Bjorndal, F. Alberto Abreu-Grobois, and M. Donnelly (eds.) Research and management techniques for conservation of sea turtles. IUCN/SSC Marine Turtle Specialist Group Publication Number 4.

Braun-McNeill, J., and S. P. Epperly. 2002. Spatial and temporal distribution of sea turtles in the western North Atlantic and the U.S. Gulf of Mexico from Marine Recreational Statistics Survey (MRFSS). Marine Fisheries Review 64(4):50–56.

Bell, C. D., J. Parsons, T. J. Austin, A. C. Broderick, G. Ebanks-Petrie, and B. J. Godley. Some of them came home: the Cayman Turtle Farm headstarting project for the green turtle Chelonia mydas. Oryx. 39(2):137–147.

CeTAP (Cetacean and Turtle Assessment Program). 1982. Final report on the cetacean and turtle assessment program. University of Rhode Island to Bureau of Land Management, U.S. Department of the Interior. Ref. No. AA551–CT8–48. 568 pp.

Coles, W. C. 1999. Aspects of the biology of sea turtles in the mid-Atlantic bight. Unpublished dissertation, The College of William and Mary in Virginia. 149 pp.

Crouse, D. T., L. B. Crowder, H. Caswell. 1987. A stage-based population model for loggerhead sea turtles and implications for conservation. Ecology 68:1412–1423.

Dodd, M. 2003. Northern recovery unit—nesting female abundance and population trends. Presentation to the Atlantic Loggerhead Sea Turtle Recovery Team, April 2003.

DuPaul, W. D., D. B. Rudders, and R. J. Smolowitz. 2004. Industry trials of a modified sea scallop dredge to minimize the catch of sea turtles. Final Report. November 2004. VIMS Marine Resources Report, No. 2004–12. 35 pp.

Ehrhart, L. M, W. E. Redfoot, D. A. Bagley. 2007. Marine turtles of the central region of the Indian River lagoon system, Florida. Biological Sciences 2007(4):415–434.

Epperly, S. P., J. Braun-McNeil, and P. M. Richards. 2007. Trends in catch rates of sea turtles in North Carolina, USA. Endangered Species Research 3:283–293.

FWRI (Florida Fish and Wildlife Conservation Commission, Fish and Wildlife Research Institute). 2007. Long term monitoring program reveals a continuing loggerhead decline, increases in green turtle and leatherback nesting. 2 pp.

Heppell, S. S. 1998. An application of life history theory and population model analysis to turtle conservation. Copeia 1998:367–375.

Heppell, S. S., L. B. Crowder, D. T. Crouse. 1996. Models to evaluate headstarting as a management tool for long-lived turtles. Ecological Applications. 6:556–565.

Heppell, S. S., L. B. Crowder, D. T. Crouse, S. P. Epperly, and N.B. Frazer. 2003. Population models for Atlantic loggerheads: past, present, and future. In A.B. Bolten and B. E. Witherington (editors) Loggerhead sea turtles. Smithsonian Institute, Washington, D.C. pp. 255–273.

Huff, J. A. 1989. Florida terminates headstart program. Marine Turtle Newsletter. 46:1–2

James, M. C., C. A. Ottensmeyer, and R. A. Myers. 2005. Identification of high-use habitat and threats to leatherback sea turtles in northern waters: new directions for conservation. Ecol. Lett. 8:195–201.

Keinath, J. A., J. A. Musick, and R. A. Byles. 1987. Aspects of the biology of Virginia's sea turtles: 1979–1986. Virginia J. Sci. 38(4):329–336.

Lawson, D. D. and J. T. DeAlteris. 2006. Evaluation of a turtle excluder device (TED) in the scallop trawl fishery in the mid-Atlantic. Final Contract to National Marine Fisheries Service, Northeast Fisheries Science Center, Woods Hole, MA. Contract No. EA133F–105–SE6561. 145 pp.

Lenhardt, M. L., S. Moein, and J. Musick. 1995. A method for determining hearing thresholds in marine turtles. In Keinath, J. A., D. E. Barnard, J. A. Musick, and B. A. Bell. 1996. Proceedings of the Fifteenth Annual Workshop on Sea Turtle Biology and Conservation. NOAA Technical Memorandum NMFS–SEFSC–387, 355 pp.

Maier, P. P., A. L. Segars, M. D. Arendt, J. D. Whitaker, B. W. Stender, L. Parker, R. Vendetti, D. W. Owens, J. Quattro, and S. R. Murphy. 2004. Development of an index of sea turtle abundance based on in-water sampling with trawl gear. Final report to the National Marine Fisheries Service. 86 pp.

Mansfield, K. L. 2006. Sources of mortalities, movements, and behavior of sea turtles in Virginia. Chapter 5. Sea turtle population estimates in Virginia. Pp. 193–240. Ph.D. dissertation. School of Marine Science, College of William and Mary.

McCauley, R. D., J. Fewtrell, A. J. Duncan, C. Jenner, M. N. Jenner, J. D. Penrose, R. I. T. Prince, A. Adhitya, J. Murdoch, and K. McCabe. 2000. Marine seismic surveys: analysis and propagation of air-gun signals; and effects of air-gun exposure on humpback whales, sea turtles, fishes and squid. Report R99–15. Centre for Marine Science and Technology, Curtin University of Technology, Western Australia. 198 pp.

Meylan, A., B. E. Witherington, B. Brost, R. Rivero, and P. S. Kubilis. 2006. Sea turtle nesting in Florida, USA: Assessments of abundance and trends for regionally significant populations of Caretta, Chelonia, and Dermochelys. pp 306–307. In: M. Frick, A. Panagopoulou, A. Rees, and K. Williams (compilers). 26th Annual Symposium on Sea Turtle Biology and Conservation Book of Abstracts.

Milliken, H. O., L. Belskis, W. DuPaul, J. Gearhart, H. Haas, J. Mitchell, R. Smolowitz, and W. Teas. 2007. Evaluation of a modified scallop dredge's ability to reduce the likelihood of damage to loggerhead sea turtle carcasses. U.S. Dep Commer., Northeast Fisheries Science Center Reference Document 07–07. Northeast Fisheries Science Center. Woods Hole, MA. 30 pp.

Morreale, S. J. and E. A. Standora. 1998. Early life stage ecology of sea turtles in northeastern U.S. waters. U.S. Dep. Commer. NOAA Tech. Mem. NMFS-SEFSC–413. 49pp.

Morreale, S. J., C. F. Smith, K. Durham, R. DiGiovanni Jr., A. A. Aguirre. 2004. Assessing health, status, and trends in northeastern sea turtle populations. Year-end report September 2002–November 2004 to the Protected Resources Division, NMFS, Gloucester, MA.

Morreale, S. J. and E. A. Standora. 2005. Western North Atlantic waters: Critical developmental habitat for Kemp's ridley and loggerhead sea turtles. Chelonian Conservation and Biology. 4(4)872–882.

Murray, K. T. 2004a. Magnitude and distribution of sea turtle bycatch in the sea scallop (Placopecten magellanicus) dredge fishery in two areas in the northwestern Atlantic Ocean, 2001–2002. Fish. Bull. 102:671–681.

Murray, K. T. 2004b. Bycatch of sea turtles in the mid-Atlantic sea scallop (Placopecten magellanicus) dredge fishery during 2003. 2nd ed. U.S. Dep Commer., Northeast Fisheries Science Center Reference Document 04–11. Northeast Fisheries Science Center. Woods Hole, MA. 25 pp.

Murray, K. T. 2005. Total bycatch estimate of loggerhead turtles (*Caretta caretta*) in the 2004 Atlantic sea scallop (*Placopecten magellanicus*) dredge fishery. U.S. Dep. Commer., Northeast Fisheries Science Center Reference Document 05–12. Northeast Fisheries Science Center. Woods Hole, MA. 22 pp.

Murray, K. T. 2007. Estimated bycatch of loggerhead turtles (*Caretta caretta*) in U.S. mid-Atlantic scallop trawl gear, 2004–2005, and in sea scallop dredge gear, 2005. U.S. Dep Commer. Northeast Fisheries Science Center Reference Document 07–04. Northeast Fisheries Science Center. Woods Hole, MA. 30 pp.

Musick, J. A. and C. J. Limpus. 1997. Habitat utilization and migration in juvenile sea turtles. Pp. 137–164 In: Lutz, P. L., and J. A. Musick, eds., The Biology of Sea Turtles. CRC Press, New York. 432 pp.

NMFS (National Marine Fisheries Service). 2005. Scallop dredge evaluations. F/V Capt. Wick, Panama City FL. 6/18/05–6/23/05. Report and Video. NOAA, National Marine Fisheries Service, Southeast Fisheries Science Center. Harvesting Systems and Engineering Branch. Received 7/12/2005. 8 pp.

NMFS (National Marine Fisheries Service) 2006. Final Environmental Impact Assessment and Regulatory Impact Review/ Regulatory Flexibility Act Analysis for sea turtle conservation measures in the mid-Atlantic sea scallop dredge fishery. NOAA, National Marine Fisheries Service Northeast Regional Office, Gloucester, MA. 140 pp.

NMFS (National Marine Fisheries Service) 2008. Endangered Species Act Section 7 consultation on the Atlantic sea scallop fishery management. Biological Opinion. NOAA, National Marine Fisheries Service Northeast Regional Office. Gloucester, MA.

NMFS SEFSC (National Marine Fisheries Service Southeast Fisheries Science Center). 2001. Stock assessments of loggerhead and leatherback sea turtles and an assessment of the impact of the pelagic longline fishery on the loggerhead and leatherback sea turtles of the Western North Atlantic. U.S. Dep. Commer. NMFS, Miami, Fl, SEFSC Contribution PRD 00/01–08; Parts I–III and Appendices I–IV. NOAA Tech. Mem. NMFS–SEFSC–455, 343 pp.

NMFS and USFWS (National Marine Fisheries Service and United States Fish and Wildlife Service). 2007a. Loggerhead sea turtle (Caretta caretta) 5-year review: summary and evaluation. National Marine Fisheries Service, Silver Spring, MD 65 pp.

NRC (National Research Council). 1990. Decline of the sea turtles: causes and prevention. Committee on Sea Turtle Conservation. Natl. Academy Press, Washington, D.C. 259 pp.

Ridgway, S. H., E. G. Wever, J. G. McCormick, and J. a. A. J. H. Palin. 1969. Hearing in the giant sea turtle, *Chelonia mydas*. Proceedings of the National Academy of Sciences 64(3). 884–890.

Shaver, D. P. 2005. Analysis of the Kemp(s ridley imprinting and headstart project at Padre Island National Seashore, Texas, 1978–88, with subsequent nesting and stranding records on the Texas coast. Chelonian Conservation and Biology. 4:846–859.

Shaver, D. J. And C. W. Caillouet Jr. 1998. More Kemp's ridley turtles return to south Texas to nest. Marine Turtle Newsletter. 82:1–5. [Erratum published in 1999. Marine Turtle Newsletter 83:23].

Shaver, D. J. and T. Wibbels. 2007. Head-starting the Kemp's ridley sea turtle. In Biology and conservation of ridley sea turtles. Plotkin, P.T. (ed). The Johns Hopkins University Press, Baltimore. Pp 297–323.

Shoop, C. R. 1980. Sea turtles in the Northeast. Maritimes 24:9–11.

Shoop, C. R. and R. D. Kenney. 1992. Seasonal distributions and abundance of loggerhead and leatherback sea turtles in waters of the northeastern United States. Herpetol. Monogr. 6:43–67.

Smolowitz, R. C. Harnish, and D. Rudders. 2005. Turtle-scallop dredge interaction study. Final Project Report. Submitted to U.S. Natl. Mar. Fish. Serv. Northeast Fisheries Science Center. Woods Hole. 83 pp.

Smolowitz, R. and M. Weeks. 2006. Turtle-scallop dredge interaction study, 2005 field season. Project Report. Submitted to U.S. Natl. Mar. Fish. Serv. Northeast Fisheries Science Center. Woods Hole. 45 pp.

Teas, W. G. 1993. Species composition and size class distribution of marine turtle strandings on the Gulf of Mexico and southeast United States coasts, 1985–1991. NOAA Tech. Memo. NMFS–SERFSC–315. 43pp.

TEWG (Turtle Expert Working Group). 1998. An assessment update for the Kemp's ridley (*Lepidochelys kempii*) and loggerhead (*Caretta caretta*) sea turtle populations in the western North Atlantic. U.S. Dep. Commer. NOAA Tech Memo. NMFS–SEFSC–409 96 pp.

TEWG (Turtle Expert Working Group). 2000. An assessment update for the Kemp's ridley and loggerhead sea turtle populations

in the western North Atlantic. U.S. Dep. Commer. NOAA Tech Memo. NMFS–SEFSC–444, 115 pp.

USFWS and NMFS (United States Fish and Wildlife Service and National Marine Fisheries Service). 1992. Recovery plan for the Kemp's ridley sea turtle (*Lepidochelys kempii*). NMFS, St. Petersburg, Fl. 40 pp.

White, M. 2004. Observations of loggerhead sea turtles feeding on discarded fish catch at Argostoli, Kefalonia. Marine Turtle Newsletter. 105:7–9.

List of Subjects in Part 50 CFR Part 223

Endangered and threatened species, Exports, Reporting and recordkeeping requirements, Transportation.

Dated: April 2, 2008.

James W. Balsiger,

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

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

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

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

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 et. seq.; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.206, paragraph (d)(11) is revised to read as follows:

§ 223.206 Exemptions to prohibitions relating to sea turtles.

* * * * *

(11) *Restrictions applicable to sea scallop dredges in the mid-Atlantic*—(i) Gear Modification. During the time period of May 1 through November 30, any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enters waters south of 41°9.0′ N. latitude, from the shoreline to the outer boundary of the Exclusive Economic Zone must have on each dredge a chain mat described as follows. The chain mat must be composed of horizontal (''tickler'') chains and vertical (up-and-down) chains that are configured such that the openings formed by the intersecting chains have no more than 4 sides. The length of each side of the openings formed by the intersecting chains, including the sweep, must be less than or equal to 14 inches (35.5 cm). The chains must be connected to each other with a shackle or link at each intersection point. The measurement must be taken along the chain, with the chain held taut, and include one shackle or link at the intersection point and all links in the chain up to, but excluding, the shackle or link at the other intersection point.

(ii) Any vessel that enters the waters described in paragraph (d)(11)(i) of this section and that is required to have a Federal Atlantic sea scallop fishery permit must have the chain mat configuration installed on all dredges for the duration of the trip.

(iii) Vessels subject to the requirements in paragraphs (d)(11)(i) and (d)(11)(ii) of this section transiting waters south of 41°9.0′ N. latitude, from the shoreline to the outer boundary of the Exclusive Economic Zone, will be exempted from the chain-mat requirements provided the dredge gear is stowed in accordance with § 648.23(b) and there are no scallops on-board.

[FR Doc. 08–1107 Filed 4–2–08; 3:31 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 070717354–8251–02]

RIN 0648–AV73

Endangered and Threatened Species; Designation of Critical Habitat for North Pacific Right Whale

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

ACTION: Final rule.

SUMMARY: We, NMFS, designate critical habitat for the North Pacific right whale in this rulemaking. The North Pacific right whale was recently listed as a separate, endangered species, and because this was a newly listed entity, we were required to designate critical habitat for it.

DATES: This rule is effective on May 8, 2008.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection by appointment duringnormal business hours at the NMFS Alaska Region, 709 W. 9th Street, Juneau, AK 21688.

FOR FURTHER INFORMATION CONTACT: Brad Smith, NMFS Alaska Region (907) 271–5006; Kaja Brix, NMFS, Alaska Region, (907) 586–7235; or Marta Nammack, (301) 713–1401, ext. 180. The final rule, references, and other materials relating to this determination can be found on our website at *http://www.fakr.noaa.gov/*.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 2006, we published a proposed rule (71 FR 77694) to list the North Pacific right whale (*Eubalaena japonica*) as an endangered species pursuant to the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*), and we listed this species as endangered on March 6, 2008 (73 FR 12024). On October 29, 2007, we published a proposed rule (72 FR 61089) to designate critical habitat for the North Pacific right whale. We proposed the same two areas that we had previously designated as critical habitat for the northern right whale in the North Pacific Ocean (71 FR 38277, July 6, 2006). We now designate these same areas as critical habitat for the North Pacific right whale. A description of, and the basis for, the designation follows.

Critical Habitat Designations Under the ESA

Section 3 of the ESA defines critical habitat as ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed . . . on which are found those physical or biological features (I) essential to the conservation of the species and which may require special management considerations or protection; and (II) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary to be essential for the conservation of the species.'' Section 3 of the ESA (16 U.S.C. 1532(3)) also defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean ''to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.''

In determining what areas meet the definition of critical habitat, 50 CFR 424.12(b) requires that we ''consider those physical or biological features that are essential to the conservation of a given species including space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.'' The regulations refine our task by directing us to ''focus on the principal biological or physical

constituent elements . . . that are essential to the conservation of the species,'' and specify that the ''known primary constituent elements shall be listed with the critical habitat description.'' The regulations identify primary constituent elements (PCEs) as including, but not limited to: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.'' An area within the geographic area occupied by the species must contain one or more PCEs to be eligible for designation as critical habitat; an area upon which no PCE is found may not be designated in the hope it will acquire one or more PCEs in the future.

Section 4 of the ESA requires that, before designating critical habitat, the Secretary consider economic impacts, impacts on national security, and other relevant impacts of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, unless excluding an area from critical habitat will result in the extinction of the species concerned. Once critical habitat is designated, section 7(a)(2) of the ESA requires that each Federal agency, in consultation with and with the assistance of NMFS, ensure that any action authorized, funded, or carried out by such agency is not likely to result in the destruction or adverse modification of critical habitat.

Geographical Area Occupied by the Species

The ESA defines critical habitat (in part) as areas within the geographical area occupied by the species at the time it was listed under the ESA. Prior to the onset of commercial whaling in 1835, right whales were widely distributed across the North Pacific (Scarff, 1986; Clapham *et al.*, 2004; Shelden *et al.*, 2005). By 1900 they were scarce throughout their range. Japan and the USSR did not sign a League of Nations agreement in 1935 to protect right whales, so they continued right whaling until 1949, when the newly created International Whaling Commission endorsed the ban. After this, 23 North Pacific right whales were legally killed by Japan and the USSR under Article VIII of the International Convention for the Regulation of Whaling (1946), which permits the taking of whales for scientific research purposes. However, it is now known that the USSR illegally caught many right whales in the North Pacific (Doroshenko, 2000; Brownell *et al.*, 2001; Ivashchenko, 2007). By 1973, the North Pacific right whale had been severely reduced by commercial whaling. Sighting data from this remnant population are too sparse to identify the range of these animals in 1973. However, no reason exists to suspect that the right whales that remain alive today inhabit a substantially different range than right whales alive during the time of the Soviet catches; indeed, given the longevity of this species, it is likely that some of the individuals who survived that whaling episode remain alive now. Consequently, recent habitat use is unlikely to be different today.

Both the SEBS and the western GOA (shelf and slope waters south of Kodiak) have been the focus of many sightings (as well as the illegal Soviet catches) in recent decades. In general, the majority of North Pacific right whale sightings (historically and in recent times) have occurred from about 40° N to 60° N latitude (lat.). There are historical records from north of 60° N lat., but these are rare and are likely to have been misidentified bowhead whales. North Pacific right whales have on rare occasions been recorded off California and Mexico, as well as off Hawaii. However, as noted by Brownell *et al.* (2001), there is no evidence that either Hawaii or the west coast of North America from Washington State to Baja California were ever important habitats for right whales. Given the amount of whaling effort as well as the human population density in these regions, it is highly unlikely that substantial concentrations of right whales would have passed unnoticed. Furthermore, no archaeological evidence exists from the U.S. west coast suggesting that right whales were the target of local native hunts. Consequently, the few records from this region are considered to represent vagrants.

For the foregoing reasons, we determine that the geographical area occupied by the North Pacific right whale at the time of ESA listing extends over a broad area of the North Pacific Ocean, between 120° E and 123° W longitude and 40° N and 60° N latitude, as shown in Figure 1.

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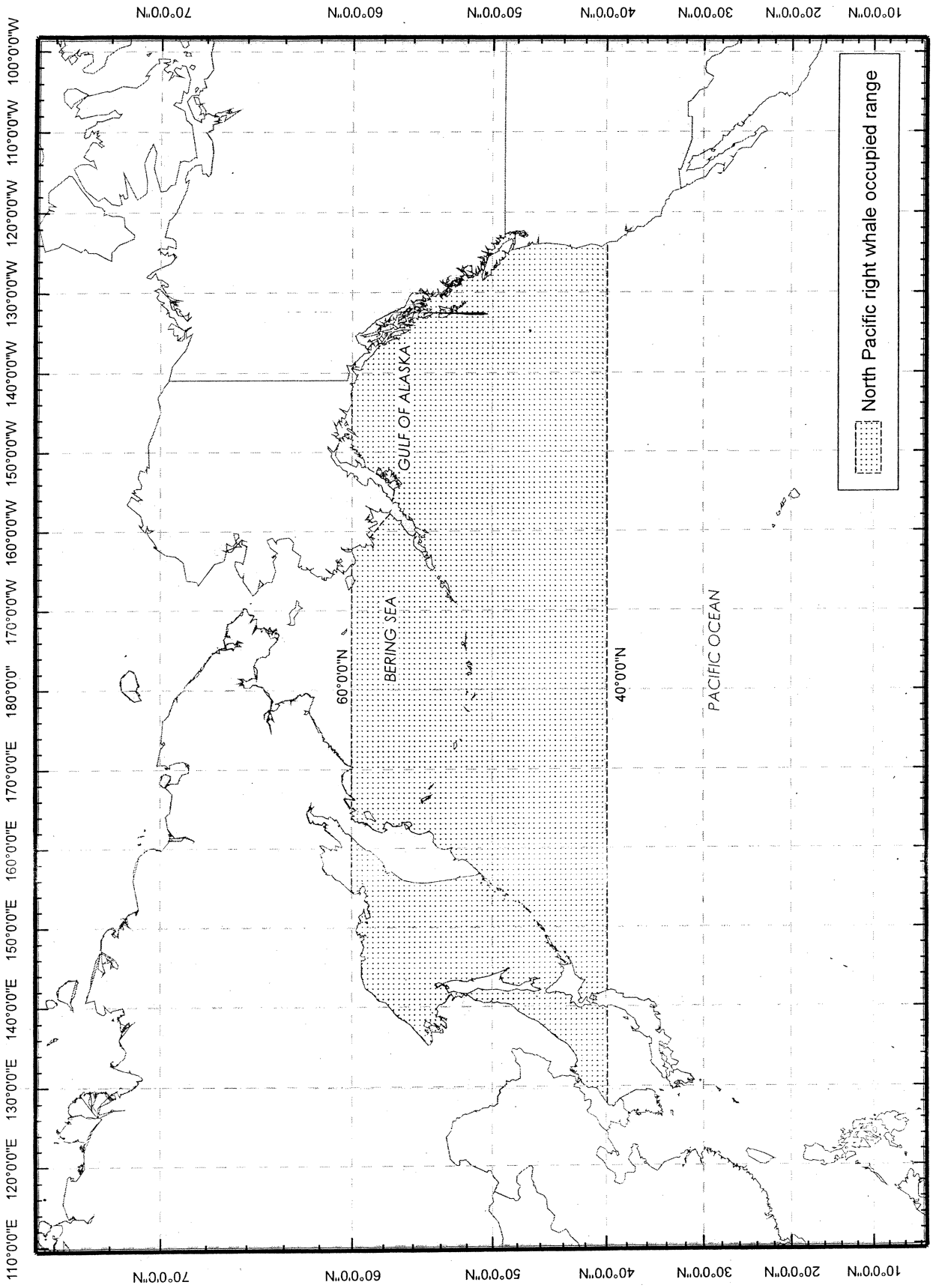

Figure 1. Occupied range of North Pacific right whales at time of listing under the Endangered Species Act.

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Unoccupied Areas

ESA section 3(5)(A)(ii) further defines critical habitat to include ''specific areas outside the geographical area occupied'' if the areas are determined by the Secretary to be ''essential for the conservation of the species.'' 50 CFR 424.12(e) specifies that NMFS ''shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' We are not designating any specific areas not occupied at the time of listing because insufficient information exists to identify any such areas that are essential to the conservation of the species. Future revisions to the critical habitat of the North Pacific right whale may consider new information which might lead to designation of areas outside the occupied area of these whales.

Primary Constituent Elements (PCEs)

NMFS scientists considered PCEs for right whales in the North Pacific during a workshop held during July 2005. Unfortunately, many data gaps exist in our knowledge of the ecology and biology of these whales, and very little is known about the PCEs that might be necessary for their conservation. The life-requisites for such factors as temperatures, depths, substrates, are unknown, or may be highly variable. One certainty is the metabolic necessity of prey species to support feeding by right whales. Examination of harvested whales in the North Pacific and limited plankton tows near feeding right whales in recent years show these whales feed on several species of zooplankton. Several species of large copepods and other zooplankton constitute the primary prey of the North Pacific right whale. Therefore, we have determined that the PCEs for the North Pacific right whale are species of large zooplankton in areas where right whale are known or believed to feed. In particular, these are the copepods *Calanus marshallae*, Neocalanus cristatus, and *N. plumchrus*, and a euphausiid, *Thysanoessa raschii*, whose very large size, high lipid content, and occurrence in the region likely makes it a preferred prey item for right whales (J. Napp, pers. comm.). A description of the critical habitat (below) establishes the presence of these PCEs within the designated areas. In addition to the physical presence of these PCEs within the critical habitat, it is likely that certain physical forcing mechanisms are present which act to concentrate these prey species in densities which allow for efficient foraging by right whales. There may in fact be critical or triggering densities below which right whale feeding does not occur. Such densities are not presently described for North Pacific right whales in the North Pacific, but have been documented in the Atlantic. Accordingly, the critical habitat encompasses areas in which the physical and biological oceanography combines to promote high productivity and aggregation of large copepods into patches of sufficient density for right whales. The PCEs, essential for the conservation of the North Pacific right whale, and these physical forcing or concentrating mechanisms, contribute to the habitat value of the areas designated.

Special Management Considerations or Protection

An occupied area may be designated as critical habitat if it contains physical or biological features that ''may require special management considerations or protection.'' 50 CFR 424.02(j) defines ''special management considerations or protection'' to mean ''any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.'' We considered whether the copepods and other zooplankton which have been identified as the PCEs for the North Pacific right whale may require special management considerations or protection. The designated critical habitat areas support extensive and multi-species commercial fisheries for pollock, flatfish, cod, various crabs, and other resources (but not salmon, as salmon fisheries in Alaska are restricted to State waters, except in the case of trolling which is permitted in Federal waters but only immediately adjacent to the Southeast Alaska coastline; these areas are not included in the designated critical habitat areas). We believe the identified PCEs would not be harmed by these federally managed fisheries. However, plankton communities and species are vulnerable to physical and chemical alterations within the water column due to both natural processes, as well as pollution from various potential sources, including oil spills and discharges from oil and gas drilling and production. Because of the vulnerabilities to pollution sources, these PCEs may require special management or protection through such measures as conditioning Federal permits or authorizations through special operational restraints, mitigation measures, or technological changes. The 2005 wreck of the M/V *Selendang Ayu* near Unalaska caused the release of approximately 321,000 gallons (1,215,117 litres) of fuel oil and 15,000 gallons (56,781 litres) of diesel into the Bering Sea. That incident has precipitated recommendations for regulations which would improve navigational safety in the area for the protection of the marine environment. While such measures are not targeted towards protecting copepods or zooplankton per se, they would act to conserve these PCEs.

PCEs in the Critical Habitat and Related Physical Processes

The current abundance of North Pacific right whales is considered to be very low in relation to historical numbers or their carrying capacity, which is not determined. The existence of a persistent concentration of North Pacific right whales found within the SEBS since 1996 is somewhat extraordinary in that it may represent a significant portion of the remaining population. These areas of concentration where right whales feed are characterized by certain physical and biological features which include nutrients, physical oceanographic processes, certain species of zooplankton, and long photoperiod due to the high latitude. These feeding areas, supporting a significant assemblage of the remaining North Pacific right whales, are critical in terms of their conservation value. We have been able to substantiate this conclusion with observations of feeding behavior, direct sampling of plankton near feeding right whales, or records of stomach contents of dead whales. These conclusions underlie the designation of the critical habitat areas shown in Figure 2 and described below. Two areas are designated: an area of the SEBS and an area south of Kodiak Island in the GOA.

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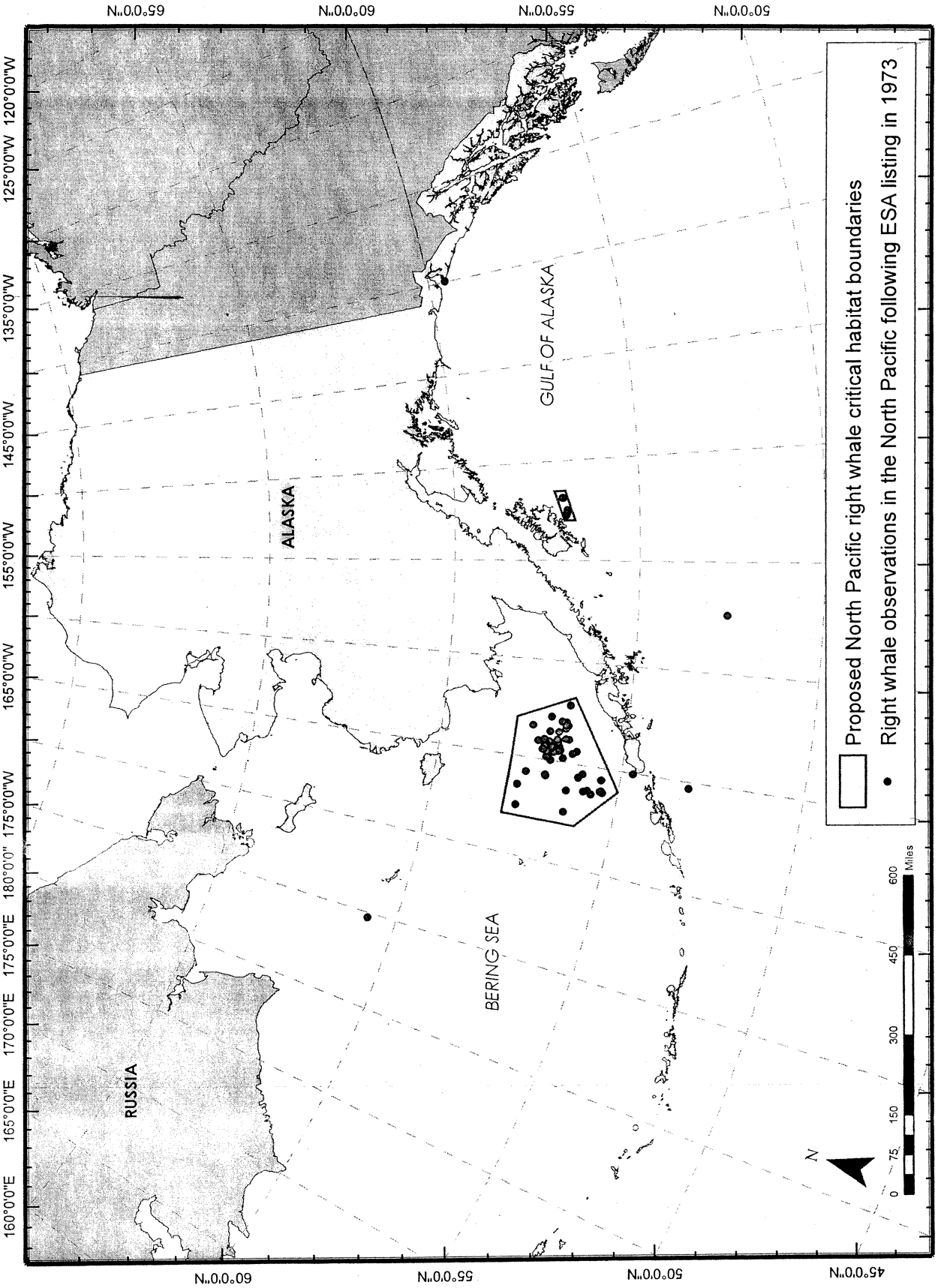

Figure 2. Proposed critical habitat for North Pacific right whales.

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Shelden *et al.* (2005) reviewed prey and habitat characteristics of North Pacific right whales. They noted that habitat selection is often associated with features that influence abundance and availability of a predator's prey. Right whales in the North Pacific are known to prey upon a variety of zooplankton species. Availability of these zooplankton greatly influences the distribution of right whales on their feeding grounds in the SEBS and GOA. Right whales require zooplankton patches of very high density, and zooplankton are typically small and distributed over space and time (Mayo and Marx, 1990). Typical zooplankton sampling is too broad-scale in nature to detect patches of these densities, and directed studies employing fine-scale sampling cued by the presence of feeding right whales are the only means of doing this (Mayo and Marx, 1990). Accordingly, there may be no obvious correlation between the abundance and distribution of prey copepods and euphausiids (as measured by broad-scale oceanographic sampling) and the distribution of right whales (M. Baumgartner, in prep.). In light of this, we must rely upon the whales themselves to indicate the location of important feeding areas in the North Pacific. Aggregations of right whales in high latitudes can be used with high confidence as an indicator of the presence of suitable concentrations of prey, and thus of feeding behavior by the whales. Right whales feed daily during spring and summer, and studies in the North Atlantic have consistently found an association between concentrations of whales and feeding behavior, with dense copepod patches recorded by oceanographic sampling around such groups of whales (Mayo and Marx, 1990; Baumgartner *et al.*, 2003a, 2003b). In the North Atlantic, an analysis of sighting data by NMFS indicated that a density of four or more right whales per 100 nm^2 was a reliable indicator of a persistent feeding aggregation (Clapham and Pace, 2001), and this had been used for Dynamic Area Management fisheries closures to reduce the risk of right whales becoming entangled in fishing gear. While this metric is a reliable indicator of the presence of feeding aggregations in the North Atlantic, it is not necessarily the only metric suitable for application in the North Pacific; the much smaller population of right whales in the eastern North Pacific Ocean typically results in sightings of single animals or pairs. Unlike with larger groups, such small numbers sometimes indicate transient passage through an area and thus cannot be unequivocally linked with feeding behavior. However, while sporadic sightings of right whales in such small numbers generally would not be considered a reliable indication of a feeding area, consistent sightings of right whales - even of single individuals and pairs - in a specific area in spring and summer over a long period of time is sufficient indication that the area is a feeding area containing suitable concentrations of copepods.

Therefore, in the absence of data which describe the densities, as well as presence, of the PCEs themselves, sightings of right whales is used here as a proxy for the existence of suitably dense copepod and euphausiid patches and thus to identify the areas proposed herein for designation as critical habitat. Figure 2 depicts the designated critical habitat and the best available sightings data.

Gulf of Alaska

We designate critical habitat in the GOA (Figure 3), described as an area delineated by a series of straight lines connecting the following coordinates in the order listed: 57° 03′ N/153° 00′ W, 57° 18′ N/151° 30′ W, 57° 00′ N/151° 30′ W, 56° 45′ N/153° 00′ W, and returning to 57° 03′ N/153 00′ W. The area described by these boundaries lies completely within the waters of the United States and its Exclusive Economic Zone (EEZ) and outside of waters of the State of Alaska. State waters extend seaward for 3 nautical miles from the shoreline; very few sightings occurred within State waters. The best available sightings data on right whales in this area totaled 5 out of 14 encounters in the GOA.

Southeastern Bering Sea

We also designate critical habitat in the Bering Sea (Figure 4), described as an area delineated by a series of straight lines connecting the following coordinates in the order listed: 58° 00′ N/168° 00′ W, 58° 00′ N/163° 00′ W, 56° 30′ N/161° 45′ W, 55° 00′ N/166° 00′ W, 56° 00′ N/168° 00′ W and returning to 58° 00′ N/168° 00prime; W. The area described by these boundaries lies completely within the waters of the United States and its EEZ and outside of waters of the State of Alaska. State waters extend seaward for 3 nautical miles from the shoreline. Because very few sightings occurred within 3 nautical miles of shore, State waters are not included in the proposed critical habitat. The best available information on right whale encounters occurring totaled 182 within this area, out of 184 encounters north of the Aleutian Islands.

Physical Processes and the Existence of PCEs Within the Critical Habitat

Southeastern Bering Sea Slope Waters

The Bering Sea slope is a very productive zone, sometimes referred to as the ''Greenbelt'', where annual primary production can exceed that on the adjacent shelf and basin by 60 percent and 270 percent, respectively (Springer *et al.*, 1996). Physical processes at the shelf edge, such as intensive tidal mixing, eddies, and up-canyon flow bring nutrients to the surface, thereby supporting enhanced productivity and elevated biomass of phytoplankton, zooplankton, and fish. Western North Pacific right whales have been observed in association with oceanic frontal zones that produce eddies southeast of Hokkaido Island, Japan, and southeast of Cape Patience (Mys Terpeniya), Sakhalin Island, in the Okhotsk Sea (Omura *et al.*, 1969). Whether the Bering Slope Current, or eddies shed from it, support production or entrain right whale prey is unknown.

From August to October in 1955 and 1956, Soviet scientists observed aggregations of Calanus spp. between the Pribilof Islands and the Aleutian Islands (around 170° W long.) that were identified as *C. finmarchicus*, though, as mentioned above, were probably *C. marshallae* (Klumov, 1963). Flint *et al.* (2002) also report high concentrations of *C. marshallae* at frontal zones near the Pribilof Islands, with especially high biomass noted for the subthermohaline layer. This oceanographic front effectively separates slope and outer shelf *Neocalanus* spp. from the inshore middle shelf community of *C. marshallae* (Vidal and Smith, 1986). Right whales were found on both sides of this frontal zone (that coincides with the shelf break at 170 m) during both the 19th and 20th centuries. This is similar to the habitat described by Baumgartner *et al.* (2003a) for right whales feeding in the North Atlantic. Six right whales that were caught under scientific permit in late July-early August 1962–63 in Bering Sea slope waters had exclusively consumed *N. cristatus* (Omura *et al.*, 1969). Although oceanic species such as *Neocalanus* spp. usually enter diapause and migrate to depths greater than 200 m by late summer in the slope waters of the Bering Sea (Vidal and Smith, 1986), right whales may still be able to utilize these resources by targeting regions where the bottom mixed layer forces the zooplankton into shallower, discrete layers (e.g., Baumgartner *et al.*, 2003a).

Southeastern Bering Sea Middle-Shelf Waters

The SEBS shelf has been the focus of intense oceanographic study since the late 1970s (e.g., Schumacher *et al.*, 1979; Coachman, 1986; Napp *et al.*, 2000; Hunt *et al.*, 2002a; Hunt *et al.*, 2002b), largely due to the considerable commercial fishing effort in the area (National Research Council, 1996). Coachman (1986) described the now well-established hydrographic domains of the inner, middle, and outer shelf, separated by a front or transition zone at roughly the 50 m (inner front) and 100 m (outer front) isobaths. During the 1990s, research focused on these domains demonstrated dynamic advection of nutrient-rich Bering slope water onto the shelf in both winter and summer via eddies, meanders, and up-canyon flow (Schumacher and Stabeno, 1998; Stabeno and Hunt, 2002). These intrusions of nutrient-rich water, physical factors related to water column stratification, and long summer day length results in a very productive food web over the SEBS shelf (e.g. Livingston *et al.*,1999; Napp *et al.*, 2002; Coyle and Pinchuk, 2002; Schumacher *et al.*, 2003). Specifically, copepod species upon which right whales feed (e.g., *C. marshallae*, *Pseudocalanus* spp., and *Neocalanus* spp.) are among the most abundant of the zooplankton sampled over the middle shelf (Cooney and Coyle, 1982; Smith and Vidal, 1986). Small, dense patches (to >500 mg per cubic meter) of euphausiids (*T. raschii*, *T. inermis*), potential right whale prey, have also been reported for waters near the SEBS inner front (Coyle and Pinchuk, 2002).

Zooplankton sampled near right whales seen in the SEBS in July 1997 included *C. marshallae*, *P. newmani*, and *Acartia longiremis* (Tynan, 1998). *C. marshallae* was the dominant copepod found in these samples as well as samples collected near right whales in the same region in 1999 (Tynan *et al.*, 2001). *C. marshallae* is the only ''large'' calanoid species found over the SEBS middle shelf (Cooney and Coyle, 1982; Smith and Vidal, 1986). Concentrations of copepods were significantly higher in 1994–98 than in 1980–81 by at least an order of magnitude (Napp *et al.*, 2002). Tynan *et al.* (2001) suggest that this increased production may explain the presence of right whales in middle shelf waters. However, at least three right whales were observed in 1985 in the same location as the middle shelf sightings reported in the late 1990s (Goddard and Rugh, 1998).

Gulf of Alaska

The central GOA is dominated by the Alaskan gyre, a cyclonic feature that is demarcated to the south by the eastward flowing North Pacific Current and to the north by the Alaska Stream and Alaska Coastal Current (ACC), which flow westward near the shelf break. The bottom topography of this region is rugged and includes seamounts, ridges, and submarine canyons along with the abyssal plain. Strong semi-diurnal tides and current flow generate numerous eddies and meanders (Okkonen *et al.*, 2001) that influence the distribution of zooplankton.

Copepods are the dominant taxa of mesozooplankton found in the GOA and are patchily distributed across a wide variety of water depths. In northern GOA shelf waters, the late winter and spring zooplankton is dominated by calanoid copepods (*Neocalanus* spp.), with a production peak in May, a cycle that appears resistant to environmental variability associated with El Nino Southern Oscillation (ENSO) (Coyle and Pinchuk, 2003). In oceanic waters (50° N lat., 145° W long.), *N. plumchrus* dominate (Miller and Nielsen, 1988; Miller and Clemons, 1988) and have demonstrated dramatic shifts in the timing of annual peak biomass from early May to late July (Mackas *et al.*, 1998). From late summer through autumn, *N. plumchrus* migrate to deep water ranging from 200 m to 2000 m depending on location within the GOA (Mackas *et al.*, 1998). The three right whales caught under scientific permit on August 22, 1961, south of Kodiak Island had all consumed *N. plumchrus* (Omura *et al.*, 1969), potentially by targeting areas where adult copepods remained above 200 m (e.g. Baumgartner *et al.*, 2003a).

The area designated as critical habitat within the SEBS presents several similarities to that designated within the GOA. Both areas are influenced by large eddies, submarine canyons, or frontal zones which enhance nutrient exchange and act to concentrate prey. These areas lie adjacent to major ocean currents (the ACC and the Aleutian ocean passes) and are characterized by relatively low circulation and water movement (P. Stabeno, pers. com.). Both critical habitat areas contain the designated PCEs and support feeding by North Pacific right whales.

Right Whale Sightings as a Proxy for Locating the PCEs

As noted above, consistent sightings of right whales - even of single individuals and pairs – in a specific area in spring and summer over an extended period of time can be used with high confidence as an indicator of the presence of the PCEs in a feeding area. We have used recent sighting records to make this determination because these records are a more reliable indicator of current distribution of feeding whales than historical sightings, especially given that most of the latter relate to animals that were removed from the population by whaling and are thus no longer extant. Of the 184 recent right whale sightings reported north of the Aleutian Islands, 182 occurred within the specific area designated as critical habitat in the Bering Sea. Since 1996, right whales have been consistently sighted in this area over a period of years during the spring and summer feeding seasons. For example, NMFS surveys alone recorded between two and four sightings in 1996 (Goddard and Rugh, 1998), 13 sightings in 2000 (Le Duc *et al.*, 2004) and over 23 sightings in 2004. Single right whales as well as pairs and aggregations of up to five animals were sighted during this period, and all sightings were within 100 nm^2 of one another. Based on consideration of these factors, we conclude that the right whale sightings in the specific area in the Bering Sea described in Figure 4 are a suitable proxy for the presence of the PCEs in this area.

Recent sightings of right whales are fewer in number in the GOA than in the Bering Sea. However, three individuals were sighted recently in the critical habitat area designated in the GOA. These sightings occurred at a time when right whales typically feed in the North Pacific Ocean. In July 1998, a single right whale exhibiting behavior consistent with feeding activity was observed among a group of about eight humpback whales (Waite *et al.*, 2003). In August 2004, a NMFS researcher observed a single right whale among a group of humpbacks. In August 2005, a NMFS researcher reported yet another sighting of a right whale within 250 to 500 meters of groups of humpback and fin whales. Acoustic monitoring of the area conducted in summer 2000 recorded what appeared to be right whale calls in the area on September 6 (Waite *et al.*, 2003). Compared to the Bering Sea sightings, the GOA right whale sightings do not provide as strong an indication of feeding right whales. However, individual right whales have been directly observed in 1998, 2004, and 2005 and detected acoustically in 2000 during the spring and summer feeding seasons in the specific area in the GOA described in Figure 3. It is also instructive that one of these animals was exhibiting feeding behavior at the

time it was observed. Based on consideration of these factors, we conclude that the right whale sightings in the specific area in the GOA described in Figure 3 are a reasonably reliable proxy for the presence of the PCEs in this area.

Response to Comments

Comment 1: A commenter supports our February 2002 finding that critical habitat cannot be designated for the (North Pacific right whale) because the essential biological requirements of the population were not sufficiently understood.

Response: In October 2000, we were petitioned to revise the critical habitat for the northern right whale by designating an additional area in the North Pacific Ocean. In February 2002, we announced our decision that critical habitat could not be designated at that time because the essential biological and habitat requirements of the population were not sufficiently understood. However, in June 2005, a Federal court found this reasoning invalid and remanded the matter to us for further action (*Center for Biological Diversity* v. *Evans*, Civ. No. 04–4496, N.D. Cal. June 14, 2005). In compliance with that order, we subsequently revised the northern right whale's critical habitat by designating areas within the Gulf of Alaska (GOA) and Bering Sea as critical habitat under the ESA. We believe that relating the presence of feeding concentrations of right whales in the North Pacific Ocean to habitat attributes was, and remains, an appropriate basis upon which to designate critical habitat for the North Pacific right whale.

Comment 2: There is no supporting evidence that: (1) concentrations of sightings are not due to sampling area; (2) concentration of Primary Constituent Elements are distinctly different in the designated areas; or (3) the population of the North Pacific right whale shows any specific habitat preference.

Response: Survey effort directed toward right whales has not been evenly distributed throughout their range. This is largely due to their very small population size, very large range, and limits on research funding. The area in the southeastern Bering Sea (SEBS) where right whales have often been observed since 1996 has received relatively greater survey effort. However, we are required to base critical habitat designations using the best scientific data available, including survey effort, and we have done so here.

We believe the described PCE (zooplankton species) concentrations are distinctly different in the designated areas. Our scientists concluded that aggregations of right whales in high latitudes can be used with high confidence as an indicator of the presence of suitable concentrations of prey, and thus of feeding behavior by the whales. Shelden *et al.* (2005) reviewed prey and habitat characteristics of northern right whales in the North Pacific and noted that habitat selection is often associated with features that influence abundance and availability of the whales' prey. Right whales in the North Pacific are known to prey upon a variety of zooplankton species. Availability of these zooplankton greatly influences the distribution of these whales on their feeding grounds in the SEBS and GOA. Because few data exist to describe the concentrations of these primary constituent elements between areas, we must rely upon the whales themselves to indicate the location of such concentrations, which are important feeding areas in the North Pacific.

Regarding habitat preference, right whales feed daily during spring and summer, and studies in the North Atlantic have consistently found an association between concentrations of whales and feeding behavior, with dense zooplankton patches recorded by oceanographic sampling around such groups of whales. In the North Pacific, we believe the persistent presence of right whales within a certain area during summer months strongly indicates the presence of zooplankton concentrations in right whale feeding grounds.

Comment 3: The proposed critical habitat designations fail to provide for recovery, so the designation should include unoccupied right whale habitat.

Response: Section 3(5)(A)(i) of the ESA requires us to identify specific areas within the geographical area occupied by the species that contain physical or biological features that may require special management considerations or protection. Section 3(5)(A)(ii) requires that specific areas outside the geographical area occupied by the species only fall within the definition of critical habitat if the Secretary determines that the area is essential for conservation. Our regulations further provide that we will designate unoccupied areas ''only when a designation limited to [the species'] present range would be inadequate to ensure the conservation of the species (50 CFR 424.12(e)).''

We found no information that would support designation of critical habitat in unoccupied areas. While historic data include sightings and other records of North Pacific right whales outside of the geographic area occupied by the species at the time it was listed, we do not have information allowing us to determine that the specific areas designated as critical habitat within the geographical area occupied by the species are inadequate for conservation, and that other unoccupied areas are essential for conservation.

Comment 4: The extent of the areas proposed for designation as critical habitat in the North Pacific Ocean is not sufficient to provide for the recovery of the northern right whale. NMFS should also designate as critical habitat those areas which were historically used by right whales in the North Pacific. NMFS should provide critical habitat designations that are over-inclusive, rather than under-inclusive.

Response: Our ability to identify critical habitat as defined in the ESA is limited by the level of information available to describe the biology and ecology of the North Pacific right whale. We have identified two specific areas within which are found biological features essential to the conservation of the species and which may require special management considerations or protection. The available scientific information on this species limits our ability to identify any additional specific areas meeting the definition of critical habitat. We anticipate modifications to the present designation may occur as more scientific information becomes available. For example, as we gather more information, the designation may be revised to encompass: (1) additional areas in which zooplankton concentrations are found to occur; or (2) the physical or biological features that comprise suitable calving grounds.

Comment 5: The precautionary principle requires NMFS to designate other areas with similar features or habitat conditions as critical habitat.

Response: It is unclear what ''similar features'' the commenter refers to here. We have used recent sighting records of feeding right whales as a proxy for the location of PCEs necessary to describe critical habitat. The ESA does not permit designation of specific areas containing features ''similar'' to the PCEs identified. The PCEs must be found in designated areas. Research on northern right whales indicates that these animals are able to locate prey in densities needed to meet their metabolic needs. Recent research indicates that right whales are feeding specialists that require exceptionally high densities of prey. The physical and biological parameters necessary to produce these ''lenses'' of highly concentrated zooplankton in the North Pacific are not

understood. While other areas in the North Pacific may contain features that provide for the production of zooplankton and that may act as forcing mechanisms for the concentration of these zooplankton, we currently lack information as to whether the features in those areas actually concentrate the prey into aggregations sufficiently dense to encourage and sustain feeding by right whales. Similarly, we do not have sufficient information to characterize the areas designated as critical habitat based on other physical or biological characteristics. Lacking such information, we rely on the presence of zooplankton, as evidenced by recent observations of feeding right whales, to identify critical habitat for the North Pacific right whale.

Comment 6: The primary constituent elements should be revised to include those habitat components that are essential for the primary biological needs of feeding, reproducing, resting, and migrating, and include all marine waters, along with associated marine aquatic flora and fauna in the water column, and the underlying marine benthic community.

Response: As stated above, existing scientific information is not sufficient to describe the essential habitat components for many of the biological needs identified in the comment. For instance, the calving areas of the North Pacific right whales remain unknown, making it impossible to describe the essential features of such habitat. As noted in the previous response, we do not have sufficient information at this time to characterize the areas designated as critical habitat based on other physical or biological characteristics.

Comment 7: The proposed critical habitat designation is inconsistent in basing designation on sighting effort, which is not consistent over the range of the North Pacific right whale. NMFS also fails to include historical data which show concentrations of North Pacific right whales in other areas that can be assumed to have important habitat attributes. The designation should be expanded. Specifically, this should include the SEBS, including the southern portion of the shelf break and the area of high prey and whale concentration to the west of the shelf break.

Response: The ESA defines critical habitat, in part, as those areas occupied by the species at the time of listing on which the identified PCEs are found. We have insufficient basis to conclude that the PCEs are found in other areas, or occurred in the past century. The current sighting data are the best available data that can be used to determine that the PCEs are found on the designated areas. We considered the utility of historic data in identifying and designating critical habitat. Many records of the commercial whalers are general in nature and do not provide specific locations, information on the numbers of whales present at the time of the sighting or harvest, or descriptions of their behavior (e.g., whether the sightings indicated feeding behavior). Therefore, we concluded that the more recent sightings data from the time of listing represented the best evidence of the current presence of the PCEs in specific feeding areas.

Comment 8: NMFS data demonstrate right whales are found through Unimak Pass and eastward to Kodiak Island. These waters also contain important features or serve important biological needs and should be added to the areas proposed for designation.

Response: We have few data describing the migratory movements of right whales in the North Pacific Ocean. While it is likely right whales move through major ocean passes, we cannot determine at this time which passes right whales use. We will continue to collect information on the right whale's habitat use to identify migration corridors and determine whether PCEs are found within these areas.

Comment 9: More research is needed to describe PCEs for the North Pacific right whale.

Response: The NMFS National Marine Mammal Laboratory and other NOAA components are now conducting research on the North Pacific right whale and its habitat. We understand that there is a need to better identify and describe the habitat for these whales, along with their basic biology. We will continue to conduct and advocate research in this area.

Activities That May Be Affected by This Designation

Section 4(b)(8) of the ESA requires that we evaluate briefly and describe, in any proposed or final regulation to designate critical habitat, those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. A wide variety of activities may affect critical habitat and, when carried out, funded, or authorized by a Federal agency, require that an ESA section 7 consultation be conducted. Such activities include, but are not limited to, oil and gas leasing and development on the Outer Continental Shelf (OCS), Federal management of high seas fisheries in territorial waters and the EEZ of the United States, dredge and fill, mining, pollutant discharges, other activities authorized or conducted by the Army Corps of Engineers and the Environmental Protection Agency (EPA), and military training exercises and other functions of the U.S. Armed Forces.

This designation of critical habitat will provide these agencies, private entities, and the public with clear notification of the designation of critical habitat for North Pacific right whales and the boundaries of the habitat. This designation will also assist these agencies and others in evaluating the potential effects of their activities on critical habitat and in determining if section 7 consultation with NMFS is required.

Exclusion Process

Section 4 (b)(2) of the ESA states that critical habitat shall be designated after taking into consideration its economic impact, the impact on national security, and any other relevant impact. Any particular area may be excluded from critical habitat designation if the benefits of exclusion are found to outweigh those of inclusion, unless such exclusion would result in the extinction of the species. We will apply the statutory provisions of the ESA, including those in section 3 that define ''critical habitat'' and ''conservation'' to determine whether a proposed action might result in the destruction or adverse modification of critical habitat.

Based upon the best available information, it appears there exists some probability of oil or gas exploration activities within (or immediately adjacent to) the North Pacific right whale critical habitat within the next 10 years. There are no commercial production facilities in operation, currently under development, nor permitted for future development, within these critical habitat areas. As only exploratory activities are expected within the next 10 years, there is little expectation that Federal actions in the oil and gas sector will have the potential to destroy or adversely modify the critical habitat within the analytical time horizon.

While we expect to consult annually on fishery related proposed actions that may affect the critical habitat, none of these actions would be expected to destroy or adversely modify the critical habitat; thus, none would be expected to result in imposition of costs on commercial fishery participants. Because fisheries do not target or affect the PCEs for the North Pacific right whale, no fishing or related activity (e.g., at-sea processing, transiting) would be expected to be restricted or

otherwise altered as a result of critical habitat.

This action is anticipated to result in consultations with EPA on seafood processing waste discharges; with the DoD on military ''underway training'' activities it authorizes; and with the U.S. Coast Guard (USCG) and MMS on approvals of oil spill response plans, among others. It is unlikely that these activities will destroy or adversely modify the critical habitat; thus, no mandatory modifications would be required. It follows that no costs, beyond the small costs attributable to inter-agency (occasionally intra-agency) consultation, result from this designation. As explained in the impacts analysis prepared for this action, some larger benefit accrues to society as a result of designation, including the educational value derived from identification and designation of the critical habitat areas within which the PCEs are found. Thus we believe that the benefits of exclusion are outweighed by the benefits of inclusion. Our analysis (see ADDRESSES) did not find any specific areas which merit such exclusion in consideration of economics, nor have we determined that national security interests or other relevant impacts warrant the exclusion of any specific areas from this designation.

The results of our 4(b)(2) analysis are further summarized in the CLASSIFICATION section below.

Classification

National Environmental Policy Act (NEPA)

We have determined that we need not prepare environmental analyses for critical habitat designations made pursuant to the ESA. See *Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 516 U.S. 1042 (1996).

Regulatory Flexibility Act (RFA)

Critical habitat designations are subject to the RFA. Under the RFA (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). We have prepared an initial regulatory flexibility analysis (IRFA) for the proposed rule and a final regulatory flexibility analysis (FRFA) for this final rule. The FRFA incorporates the IRFA and any comments received on the economic impacts of the rule. These documents are available upon request (see **ADDRESSES**). A summary of the analysis follows.

The small entities that may be directly regulated by this action are those that seek formal approval (e.g., a permit) from, or are otherwise authorized by, a Federal agency to undertake an action or activity that ''may affect'' critical habitat for the North Pacific right whale. Submission of such a request for a Federal agency's approval, from a small entity, would require that agency (i.e., the ' action agency') to consult with NMFS (i.e., the 'consulting agency').

Consultations vary from simple to complex, depending on the specific facts of each action or activity for which application is made. Attributable costs are directly proportionate to complexity. In the majority of instances projected to take place under the proposed critical habitat designation, these costs are expected to accrue solely to the Federal agencies that are party to the consultation. In only formal consultations might it be expected that a private sector applicant could potentially incur costs directly attributable to the consultation process itself. Furthermore, if destruction or adverse modification of critical habitat is found at the conclusion of formal consultation, the applicant must implement modifications to avoid such effects. These modifications could result in adverse economic impacts.

An examination of the Federal agencies with management, enforcement, or other regulatory authority over activities or actions within, or immediately adjacent to, the critical habitat area indicated that potential action agencies may include: the EPA, USCG, DoD, MMS, and NMFS. Activities or actions with a nexus to these Federal agencies which are expected to require consultation include: EPA permitting of seafood processing waste discharges at-sea; USCG and MMS oil spill response plan approval, as well as emergency oil spill response; DoD authorization of military training activities in the Bering Sea and Aleutian Islands (BSAI) and GOA; MMS leasing activity, oil and gas exploration and production permitting, and NMFS fishery management actions in the BSAI and GOA.

A 10–year ''post-designation'' analytical horizon was adopted, during which time we may reasonably expect to consult an estimated 27 times on critical habitat-related actions with one or more of the action agencies identified above. The majority of the consultations are expected to be ''informal,'' projected to represent approximately 52 percent of the total. The more complex and costly ''formal'' consultations are projected to account for perhaps 37 percent, while the simplest and least costly ''pre-consultations'' are expected to account for 11 percent of the total. These figures reflect the best estimates information and experience can presently provide.

On the basis of the underlying biological, oceanographic, and ecological science used to identify the PCEs that define critical habitat for the North Pacific right whale, as well as the foregoing assumptions, empirical data, historical information, and accumulated experience regarding human activity in the BSAI and GOA, it is believed that only OCS oil and gas exploration and production has the potential, albeit relatively small, to ''destroy or adversely modify'' right whale critical habitat.

As previously indicated, MMS has authority over OCS oil and gas permitting. An examination of published information from the MMS Alaska Region reveals that three MMS OCS planning areas overlap some portion of the right whale critical habitat areas. Further, MMS sources indicate that in only one of these has there been any exploratory well drilling (i.e., St. George Basin). Ten exploratory wells were permitted, all of which were completed in 1984 and 1985 (with no subsequent associated exploration activity). It appears that there has been no recent OCS oil and gas activity in and adjacent to the areas designated as critical habitat. MMS reported no planned or scheduled OCS lease sales for these areas through 2007 (the end of the last 5–year Lease-Sale planning cycle). However, both seismic acquisition and leasing took place in the adjacent North Aleutian Basin Planning Area through Sale 92 held in 1988. Leases were held until 1995, when a ''buy-back'' settlement was reached between leaseholders and the Federal government. There are no current OCS lease holdings in the St. George Basin or North Aleutian Basin Planning Areas. In January 2007, the President modified the Presidential withdrawal for the North Aleutian Basin, allowing the Secretary of the Interior to offer this OCS planning area for leasing during the next 5–year OCS leasing program (2007- 2012). The 2007–2012 program now includes a lease sale in the North Aleutian Basin to be held in 2011. MMS may also offer a sale in the North Aleutian Basin which would be confined to a small portion of the planning area previously offered during lease sale 92 in 1988.

When MMS records were consulted as to the identity of the entities that previously held lease rights to the wells in the St. George Basin, six businesses were listed for the ten permitted exploratory wells. These include: SHELL Western E&P Inc. (2 wells); ARCO Alaska Inc. (3 wells); EXXON Corp. (2 wells); Mobile Oil Corp. (1 well) (now merged with EXXON); GULF Oil Corp. (1 well); and CHEVRON USA Inc. (1 well). MMS records also indicate that the following nine companies submitted bids, jointly or individually, on blocks in the North Aleutian Basin under lease sale 92 held in 1988: Chevron, Unocal, Conoco, Murphy, Odeco, Amoco, Shell, Mobil, and Pennzoil. These data were last updated, according to the MMS website, on March 17, 2005. It would appear that none of these entities could reasonably be characterized as ''small entities'' for RFA purposes. All are widely recognized multi-national corporations and employ more than ''500 full-time, part-time, temporary, or any other category of employees, in all of their affiliated operations worldwide'' (the criterion specified by SBA for assessing entity size for this sector).

The preferred alternative was compared to the mandatory ''No Action'' (or status quo) alternative. In addition, a third alternative was analyzed and its expected benefits and costs contrasted with the status quo and preferred alternatives. That alternative was based upon the proposed areas of the Bering Sea identified in an October 2000 petition that requested critical habitat be designated for the northern right whale within the North Pacific Ocean.

The action does not impose new recordkeeping or reporting requirements on small entities. No comments were received on the IRFA identifying analytical deficiencies or objecting to the reported RFAA interpretations and conclusions, or on the economic impacts of the rule.

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

This rule to designate critical habitat for the North Pacific right whale has been determined to be significant for purposes of Executive Order (E.O.) 12866. As part of our exclusion process under section 4(b)(2) of the ESA, the economic benefits and costs of the proposed critical habitat designations are described in our economic report. Data are not available to express all costs and benefits of designation in monetary terms. Indeed, many costs and benefits accrue outside of traditional markets and, therefore, are not typically associated with a monetary measure (e.g., subsistence activities). While these benefits and costs cannot be either monetized nor quantified, they are nonetheless important to a full evaluation and understanding of the designation. These benefits and costs have been fully characterized in qualitative terms. Application of a benefit/cost framework is fully consistent with E.O. 12866.

This rule designates as critical habitat for the North Pacific right whale the same critical habitat that was designated for the northern right whale in the eastern North Pacific Ocean in 2006 (71 FR 38227; July 6, 2006). The analysis provided largely mirrors the analysis provided in the 2006 rulemaking, updated as necessary to account for new information, and does not result in any substantive changes to the analytical conclusions.

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

This final rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of these circumstances is applicable to this critical habitat designation. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, we provided the proposed rules to the relevant state agencies in each state in which the North Pacific right whale is believed to occur, and these state agencies were invited to comment. We have requested information from, and will coordinate development of, the critical habitat designation with appropriate State resource agencies in Alaska. The designation may have some benefit to State and local resource agencies in that the areas essential to the conservation of the species are more clearly defined, and the PCEs of the habitat necessary to the survival of the North Pacific right whale are specifically identified.

Government-to-Government Relationship With Tribes – E.O. 13175

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. E.O. 13175 - Consultation and Coordination with Indian Tribal Governments- outlines the responsibilities of the Federal Government in matters affecting tribal interests.

We have determined the designation of critical habitat for the North Pacific right whale in the North Pacific Ocean will not have tribal implications, nor affect any tribal governments or issues. None of the designated critical habitat includes tribal lands, affects tribal trust resources, or affects the exercise of tribal rights.

Military Lands

The Sikes Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resource Management Plan. The National Defense Authorization Act for Fiscal Year 2004 (Public Law No. 108–136) amended the ESA to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(I) of the ESA (16 U.S.C. 1533(a)(3)(B)(I)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' We have determined no military lands would be impacted by this proposed rule.

Executive Order 13211.

On May 18, 2001, the President issued an Executive Order (E.O.) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking any action that promulgates or is expected to lead to the promulgation of a final rule or regulation that (1) is a significant regulatory action under E.O. 12866 and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy. We have considered the potential impacts of this action on the supply, distribution, or use of energy, and we find the designation of critical habitat will not have impacts that exceed the thresholds identified above.

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

In accordance with the Unfunded Mandates Reform Act, we make the following findings:

This final rule designating critical habitat for the North Pacific right whale will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5) (7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the ESA, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat. While non-Federal entities who receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legal duty to avoid destruction or adverse modification of critical habitat is borne by the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would the critical habitat designation shift the costs of the large entitlement programs listed above to State governments. Due to the prohibition against take of this species both within and outside of the designated areas, we do not anticipate that this final rule will significantly or uniquely affect small governments. Thus, a Small Government Agency Plan is not required.

Takings

In accordance with E.O. 12630, this final rule does not have significant takings implications. Under E.O. 12630, ''Actions undertaken by governmental officials that result in a physical invasion or occupancy of private property, and regulations imposed on private property that *substantially affect its value or use*, may constitute a taking of property'' [emphasis added]. The critical habitat designation can not be expected to substantially affect the value or use of property. A takings implication assessment is not required.

The designation of critical habitat confers the ESA section 7 protection against ''the destruction or adverse modification of [critical] habitat.'' The designation of critical habitat in this rule affects only Federal agency actions, and will not increase or decrease the current restrictions on private property concerning take of right whales. Private lands do not exist within or near the designated critical habitat and therefore would not be affected by this action.

Civil Justice Reform

In accordance with E.O. 12988, the Department of Commerce has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the E.O. We are designating critical habitat in accordance with the provisions of the ESA. This final rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding habitat needs of North Pacific right whale.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: April 1, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, we amend part 226, title 50 of the Code of Regulations as set forth below:

PART 226—DESIGNATED CRITICAL HABITAT

■ 1. The authority citation of part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 2. In § 226.203, the section heading is revised, the introductory text is removed, paragraph (a) heading is removed, paragraph (b) is removed in its entirety, and paragraphs (a)(1), (a)(2), and (a)(3) are redesignated as paragraphs (a), (b), and (c), respectively, to read as follows:

§ 226.203 Critical habitat for northern right whales.

* * * * *

■ 3. Section 226.215 is added to read as follows:

§ 226.215 Critical habitat for the North Pacific Right Whale (*Eubalaena japonica*).

(a) *Primary Constituent Elements.* The primary constituent elements of the North Pacific right whale are the copepods *Calanus marshallae*, *Neocalanus cristatus*, and *N. plumchris*, and the euphausiid *Thysanoessa raschii*, in areas of the North Pacific Ocean in which North Pacific right whales are known or believed to feed, as described in paragraphs (b) and (c) of this section.

(b) *Bering Sea.* An area described by a series of straight lines connecting the following coordinates in the order listed:

58° 00′ N/168° 00′ W
58° 00′ N/163° 00′ W

56° 30′ N/161° 45′ W
55° 00′ N/166° 00′ W
56° 00′ N/168° 00′ W
58 °00′ N/168° 00′ W.

(c) Gulf of Alaska. An area described by a series of straight lines connecting the following coordinates in the order listed:

57° 03′ N/153° 00′ W
57° 18′ N/151° 30′ W
57° 00′ N/ 151° 30′ W
56° 45′ N/153° 00′ W
57° 03′ N/153° 00′ W.

(d) Maps of critical habitat for the North Pacific right whale follow:

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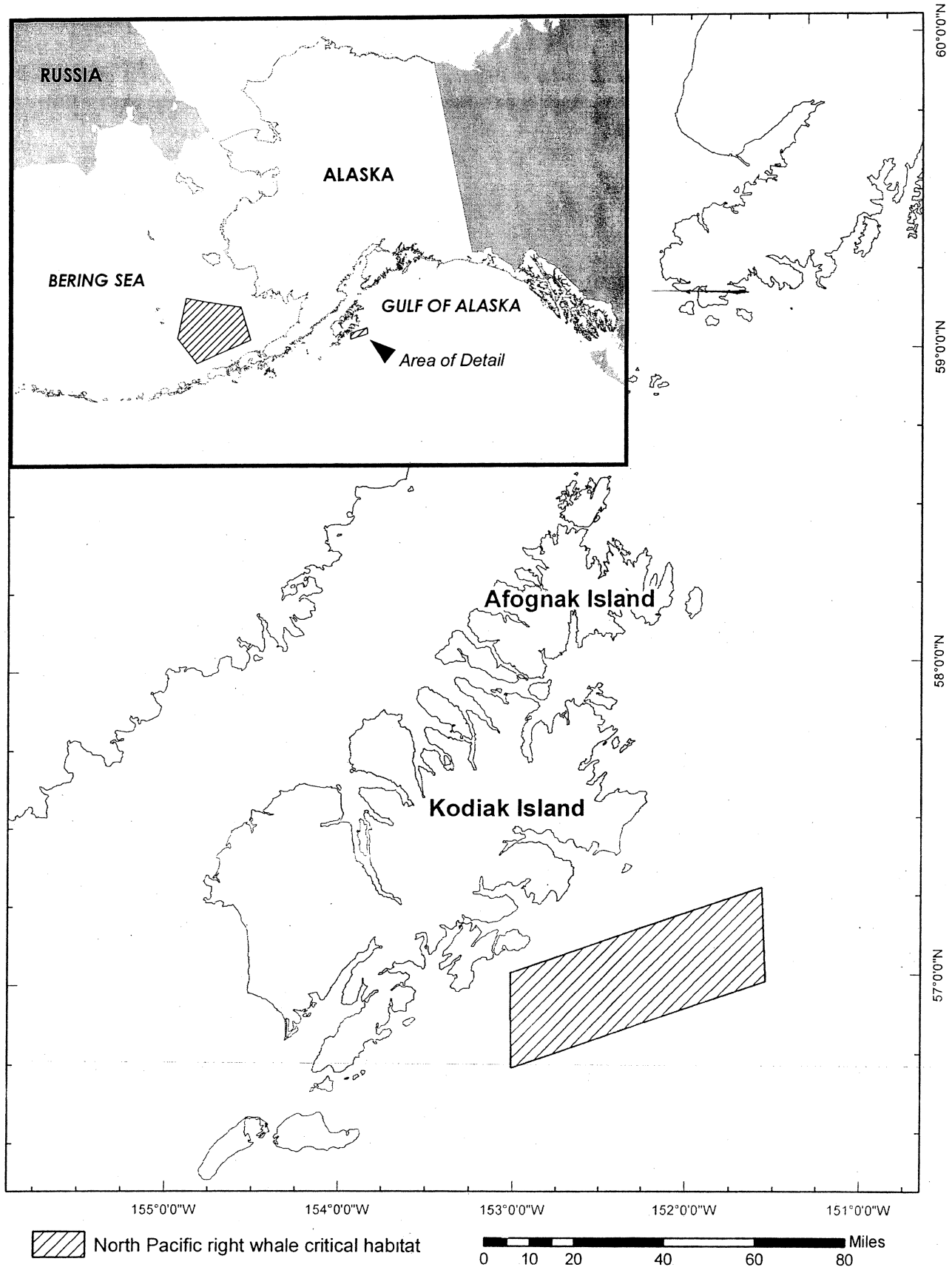
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BERING SEA
GULF OF ALASKA
Area of Detail
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Kodiak Island
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59°0'0"N
58°0'0"N
57°0'0"N
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North Pacific right whale critical habitat
Miles
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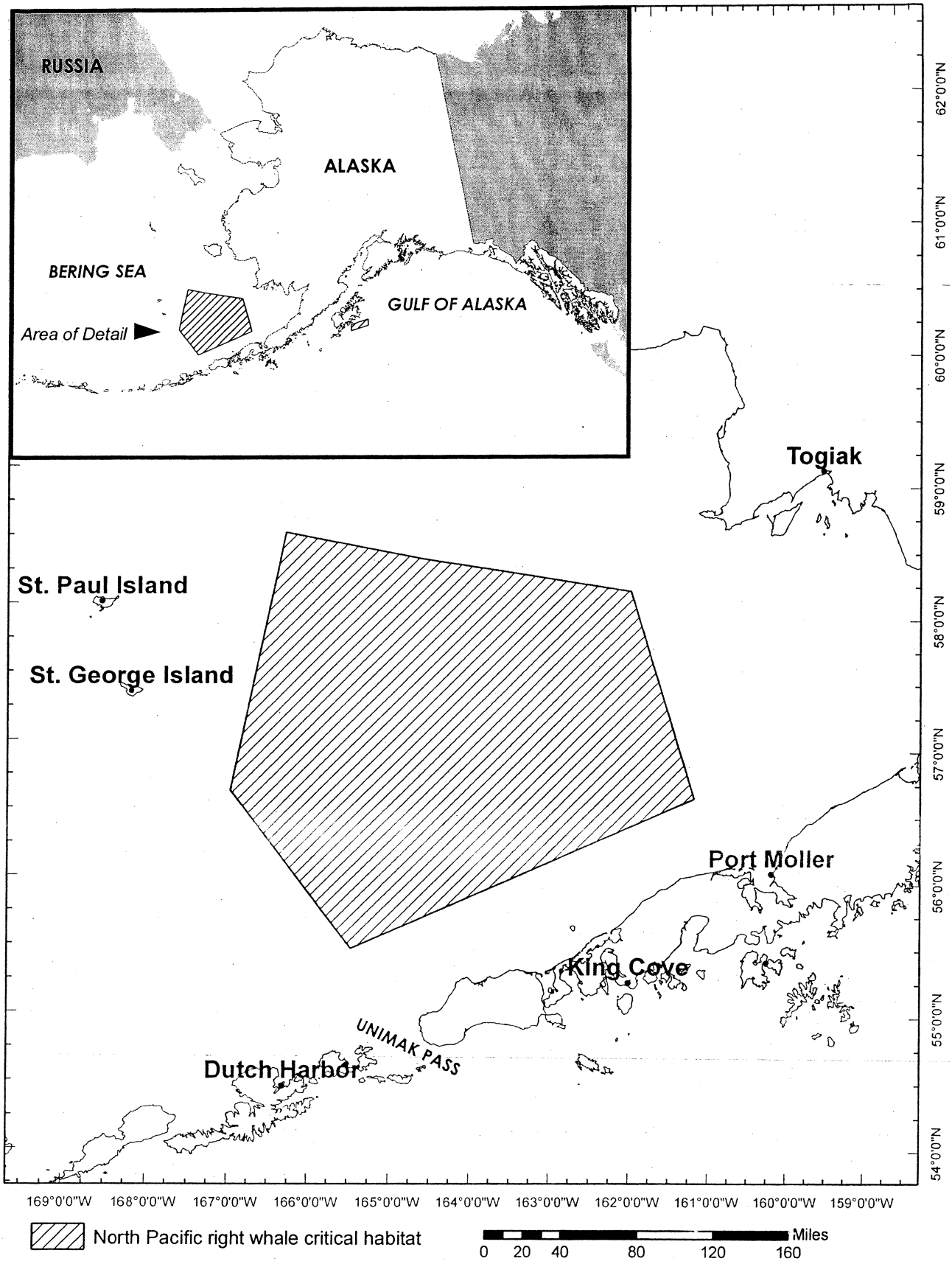

[FR Doc. E8–7233 Filed 4–7–08; 8:45 am]

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Proposed Rules

Federal Register
Vol. 73, No. 68
Tuesday, April 8, 2008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28160; Directorate Identifier 2007–NM–006–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 and 757–300 Series Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier proposed airworthiness directive (AD) for certain Boeing Model 757–200 and 757–300 series airplanes. The original NPRM would have required installing a bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain masts. The original NPRM resulted from a report of charred insulation blankets and burned wires around the forward gray water composite drain mast found during an inspection of the forward cargo compartment on a Model 767–300F airplane. For certain airplanes, this action revises the original NPRM by adding a new inspection of existing aft bonding jumper assemblies that might be too short, repair if necessary, and replacement of the bonding jumper assembly with a new, longer bonding jumper assembly if necessary. We are proposing this supplemental NPRM to prevent a fire near a composite drain mast and possible disruption of the electrical power system due to a lightning strike on a composite drain mast, which could result in the loss of several functions essential for safe flight.

DATES: We must receive comments on this supplemental NPRM by May 5, 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.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Nicholas Wilson, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6476; fax (425) 917–6590.

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–2007–28160; Directorate Identifier 2007–NM–006–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

We issued a notice of proposed rulemaking (NPRM) (the ''original NPRM'') to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 757–200 and 757–300 series airplanes. The original NPRM was published in the **Federal Register** on May 16, 2007 (72 FR 27497). The original NPRM proposed to require installing a bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain masts.

Actions Since Original NPRM Was Issued

Since we issued the original NPRM, Boeing has advised us of reports of the bonding jumper being too short to reach the bracket in the aft drain installation, as described in Boeing Special Attention Service Bulletin 757–30–0024, dated July 24, 2006. Boeing has issued Special Attention Service Bulletin 757–30–0024, Revision 1, dated October 25, 2007. The procedures in this service bulletin are essentially the same as those in the original service bulletin. The service bulletin also includes procedures to correct bonding jumper assemblies that are too short on airplanes that changed the aft drain mast in accordance with the original issue of the service bulletin, and procedures that should be followed if the proper resistance values of the bonding jumper cannot be met. We have added a new paragraph to this supplemental NPRM to require inspection, repair, and replacement of the aft bonding jumper assemblies installed according to the original service bulletin that have been determined to be too short. We have also revised paragraph (f) of the supplemental NPRM to refer to Revision 1 of the service bulletin as the appropriate source of service information for the proposed requirements.

Additional Changes to This Supplemental NPRM

We have also updated the Costs of Compliance section of this supplemental NPRM to reflect the new inspection, the current number of U.S.-registered airplanes, and the cost of parts necessary to accomplish the proposed actions.

We have confirmed with the airplane manufacturer that the composite and aluminum drain mast can be interchangeable. Therefore, we have added a new paragraph (h), ''Parts Installation,'' to this supplemental NPRM to prohibit installation of a composite gray water drain mast, unless a bonding jumper is also installed, as specified in paragraph (f) of this AD. We have also re-identified subsequent paragraphs accordingly.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

We are proposing this supplemental NPRM because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design. Certain changes described above expand the scope of the original NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Costs of Compliance

There are about 83 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this supplemental NPRM.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Bonding jumper installation	2	$80	$392, per kit (1 kit per drain mast).	$944	70	$66,080.
Inspection of existing bonding jumper installation in bulk cargo compartment.	1	80	$392	472	Up to 70	Up to $33,040.

Authority for This Rulemaking

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

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

Regulatory Findings

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 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 supplemental NPRM and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

Boeing: Docket No. FAA–2007–28160; Directorate Identifier 2007–NM–006–AD.

Comments Due Date

(a) We must receive comments by May 5, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 757–200 and 757–300 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 757–30–0024, Revision 1, dated October 25, 2007.

Unsafe Condition

(d) This AD results from a report of charred insulation blankets and burned wires around the forward gray water composite drain mast found during an inspection of the forward cargo compartment on a Model 767–300F airplane. We are issuing this AD to prevent a fire near a composite drain mast and possible disruption of the electrical power system due to a lightning strike on a composite drain mast, which could result in the loss of several functions essential for safe flight.

Compliance

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

Bonding Jumper Installation

(f) Except as provided by paragraph (g) of this AD: Within 60 months after the effective date of this AD, install a bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain mast, in accordance with Parts 1 and 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–30–0024, Revision 1, dated October 25, 2007.

Existing Bonding Jumper Inspection

(g) For airplanes on which the bonding jumper was installed on the aft drain mast in

accordance with Boeing Special Attention Service Bulletin 757–30–0024, dated July 24, 2006: Within 60 months after the effective date of this AD, do a general visual inspection of the aft bonding jumper assembly for signs of riding (chafing) in accordance with Part 3 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–30–0024, Revision 1, dated October 25, 2007. If no riding damage is found, no further action is required by this AD for the aft drain mast. If riding damage is found, before further flight do the actions specified in paragraphs (g)(1) and (g)(2) of this AD. Doing the actions specified in this paragraph terminates the requirement to install the bonding jumper on the aft drain mast specified in paragraph (f) of this AD.

(1) Repair any riding damage found in accordance with the service bulletin.

(2) Remove the existing bonding jumper assembly and install a new, longer bonding jumper assembly in accordance with Part 3 of the Accomplishment Instructions of the service bulletin. As an option to the longer bonding jumper assembly, operators may remove the bracket, fill the holes in the stringer, and restore the finish in accordance with Part 3 of the Accomplishment Instructions of the service bulletin; and install the ground bracket and jumper assembly in accordance with Part 2 of the Accomplishment Instructions of the service bulletin.

Parts Installation

(h) As of the effective date of this AD, no person may install, on any airplane, a composite gray water drain mast, unless a bonding jumper is also installed, as specified in paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on March 31, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7302 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29240; Directorate Identifier 2007–CE–076–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 175 and 175A 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 certain Cessna Aircraft Company (Cessna) Models 175 and 175A airplanes. This proposed AD would require you to check the airplane logbook to determine if the original engine mounting brackets have been replaced. If the original engine mounting brackets are still installed, this proposed AD would require you to repetitively inspect those brackets for cracks and replace any cracked engine mounting bracket. After replacing all four original engine mounting brackets, no further action would be required by this proposed AD. This proposed AD was prompted by a report that the engine became detached from the firewall during landing on one of the affected airplanes. We are proposing this AD to detect and correct cracks in the engine mounting brackets, which could result in failure of the engine mounting bracket. This failure could lead to the engine detaching from the firewall.

DATES: We must receive comments on this proposed AD by June 9, 2008.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *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.
- *Fax:* (202) 493–2251.
- *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.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.

For service information identified in this proposed AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax: (316) 942–9006.

FOR FURTHER INFORMATION CONTACT: Gary Park, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4123; fax: 316–946–4107; e-mail address: *gary.park@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2007–29240; Directorate Identifier 2007–CE–076–AD'' at the beginning 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://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD.

Discussion

We received a report of the engine detaching from the firewall on a Cessna Model 175 airplane during landing. Investigation revealed that cracks in the two top engine mounting brackets behind the firewall caused the brackets to fail. This resulted in the top half of the firewall failing, pulling forward and down about 18 inches.

The National Transportation Safety Board (NTSB) Materials Laboratory examined the cracked brackets. The examination revealed that the metal content of the brackets did not contain the constituent elements of the specified material and was approximately 40 percent below the specified strength. The NTSB determined that reduced structural integrity of the engine mounting brackets resulted in fatigue cracks developing in the brackets.

We agree with the NTSB's determination that inadequate materials used in manufacturing the engine mounting brackets, which were used on

Cessna Models 175 and 175A airplanes manufactured from 1958 through 1960, caused the engine mounting brackets to crack.

This condition, if not corrected, could cause the engine mounting brackets to fail. This failure could result in the engine detaching from the firewall.

Relevant Service Information

We have reviewed Cessna Single Engine Service Bulletin SEB07–2, Revision 2, dated June 18, 2007. The service information describes procedures for:

- Inspecting the upper and lower engine mounting brackets on both the left and right sides for cracks; and
- Replacing cracked engine mounting brackets.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require you to check the airplane logbook to determine if the original engine mounting brackets have been replaced. If the original engine mounting brackets are still installed, this proposed AD would require you to repetitively inspect those brackets for cracks and replace any cracked engine mounting bracket. After replacing all four original engine mounting brackets, no further action would be required by this proposed AD. This proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 1,218 airplanes in the U.S. registry.

We estimate the following costs to do each proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
7.5 work-hours × $80 per hour = $600	Not applicable	$600	$730,800

We estimate the following costs to do the proposed replacements.

Labor cost	Parts cost	Total cost per airplane
3 work-hours per bracket × $80 per hour = $240 per bracket. 4 brackets per airplane × $240 per bracket = $960.	$200 per bracket. 4 × $200 = $800 for all 4 brackets.	$440 per bracket. $1,760 to replace all 4 brackets.

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 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.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

Cessna Aircraft Company: Docket No. FAA–2007–29240; Directorate Identifier 2007–CE–076–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by June 9, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.	Year manufactured
(1) 175	55001 through 55703	1958.
(2) 175	55704 through 56238	1959.
(3) 175	28700A, 626, and 640	1958 and 1959.
(4) 175A	691, and 56239 through 56777	1960.

Unsafe Condition

(d) A report that the engine became unattached from the firewall during landing on one of the affected airplanes prompts this AD. We are issuing this AD to detect and correct cracks in the engine mounting brackets, which could result in failure of the engine mounting bracket. This failure could lead to the engine detaching from the firewall.

Compliance

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

Actions	Compliance	Procedures
(1) Check the airplane logbook to determine if all four of the original engine mounting brackets have been replaced.	Within the next 30 days after the effective date of this AD.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do this action.
(2) If you can positively determine that all four of the original engine mounting brackets have been replaced, no further action is required.	Not applicable	Make an entry into the aircraft logbook showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do this action.
(3) If you cannot positively determine that all four of the original engine mounting brackets have been replaced, inspect each of the upper and lower engine mounting brackets on both the left and right sides for cracks as specified in the service bulletin.	Initially inspect within the next 12 months after the effective date of this AD. If no cracks are found, repetitively inspect thereafter at intervals not to exceed 500 hours time-in-service (TIS) until all four of the original engine mounting brackets are replaced.	Follow Cessna Single Engine Service Bulletin SEB07–2, Revision 2, dated June 18, 2007.
(4) If cracks are found in any of the engine mounting brackets during any inspection required in paragraph (e)(3) of this AD, replace the cracked engine mounting bracket(s).	Before further flight after the inspection in which cracks are found. Replacing the cracked engine mounting bracket terminates the repetitive inspection required in paragraph (e)(3) of this AD only for the replaced engine mounting bracket.	Follow Cessna Single Engine Service Bulletin SEB07–2, Revision 2, dated June 18, 2007.
(5) To terminate the repetitive inspections required in paragraph (e)(3) of this AD, you may replace all four original engine mounting brackets.	At any time before or after the initial inspection required in paragraph (e)(3) of this AD.	Follow Cessna Single Engine Service Bulletin SEB07–2, Revision 2, dated June 18, 2007.
(6) Dispose of every replaced bracket following 14 CFR 43.10, paragraph (c)(6), which states the following: "Mutilation. The part may be mutilated to deter its installation in a type certificated product. The mutilation must render the part beyond repair and incapable of being reworked to appear to be airworthy."	Before further flight after the engine mounting bracket is removed for replacement.	Not applicable.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Gary Park, Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4123; fax: 316–946–4107; e-mail address: *gary.park@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(g) To get copies of the service information referenced in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax: (316) 942–9006. To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://dms.dot.gov*. The docket number is Docket No. FAA–2007–29240; Directorate Identifier 2007–CE–076–AD.

Issued in Kansas City, Missouri, on March 31, 2008.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7258 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0307; Airspace Docket 08–AEA–18]

Establishment of Class E Airspace; Removal of Class E Airspace; Roanoke Rapids, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Halifax Northampton Regional Airport, (IXA),

Roanoke Rapids, NC and remove Class E airspace at Halifax County Airport, Roanoke Rapids, NC, (RZZ). The operating status of the airport will include Instrument Flight Rule (IFR) operations. This action would enhance the safety and airspace management of Halifax-Northampton Regional Airport.

DATES: Comments must be received on or before May 23, 2008.

ADDRESSES: Send comments on this proposal to the U. S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Ave, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527. You must identify the docket number FAA–2008–0307; Airspace Docket 08 AEA–18, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal.

Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2008–0307; Airspace Docket No. 08–AEA–18.'' The postcard will be date/time stamped and returned to the commenter. AD communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html*. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11 –2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Code of Federal Regulations (14 CFR part 71) to establish Class E5 airspace at Roanoke Rapids, NC. A new airport, Halifax-Northampton Regional Airport (IXA), has been built and will replace Halifax County Airport (RZZ); therefore, the airspace supporting RZZ is no longer required. Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) Runways (RWYs) 02–20 have been developed for Halifax-Northampton Regional Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rules (IFR) operations at Halifax-Northampton Regional Airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the Earth are published in Paragraph 6005 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace at Roanoke Rapids, NC.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AEA NC E5 Roanoke Rapids, NC [REMOVE)

Halifax County Airport, NC

* * * * *

AEA NC E5 Roanoke Rapids, NC (NEW]

Halifax-Northampton Regional Airport, NC (Lat. 36°19′47″ N., long. 77°38′07″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Halifax-Northampton Regional Airport.

* * * * *

Issued in College Park, Georgia, on March 19, 2008.

Mark D. Ward,

Manager, System Support Group Eastern Service Center.

[FR Doc. E8–7092 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 5

RIN 2900–AL72

Burial Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to reorganize and rewrite in plain language provisions applicable to burial benefits. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension rules in a logical, claimant-focused, and user-friendly format. The intended effect of the proposed revisions is to assist claimants, beneficiaries, and VA personnel in locating and understanding these regulations regarding burial benefits.

DATES: Comments must be received by VA on or before June 9, 2008.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to: Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026 (not a toll free number). Comments should indicate that they are submitted in response to ''RIN 2900–AL72—Burial Benefits.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment (not a toll free number). In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: William F. Russo, Director of Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–4902 (not a toll free number).

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs has established an Office of Regulation Policy and Management to provide centralized management and coordination of VA's rulemaking process. One of the major functions of this office is to oversee a Regulation Rewrite Project (the Project) to improve the clarity and consistency of existing VA regulations. The Project responds to a recommendation made in the October 2001 ''VA Claims Processing Task Force: Report to the Secretary of Veterans Affairs.'' The Task Force recommended that the compensation and pension regulations be rewritten and reorganized in order to improve VA's claims adjudication process. Therefore, the Project began its efforts by reviewing, reorganizing, and redrafting the content of the regulations in 38 CFR part 3 governing the compensation and pension program of the Veterans Benefits Administration. These regulations are among the most difficult VA regulations for readers to understand and apply.

Once rewritten, the proposed regulations will be published in several portions for public review and comment. This is one such portion. It includes proposed rules regarding burial benefits. After review and consideration of public comments, final versions of these proposed regulations will ultimately be published in a new part 5 in 38 CFR.

Outline

Overview of New Part 5 Organization
Overview of Proposed Subpart J Organization
Table Comparing Current Part 3 Rules with Proposed Part 5 Rules
Content of Proposed Regulations
Section 5.630 Types of VA burial benefits
Section 5.631 Deceased veterans for whom VA may provide burial benefits
Section 5.632 Persons who may receive burial benefits
Section 5.633 Claims
Section 5.634 Reimbursable burial expenses—General
Section 5.635 Reimbursable transportation expenses for veterans who are buried in a national cemetery or who died while hospitalized by VA
Section 5.636 Burial of veterans whose remains are unclaimed
Section 5.638 Burial allowance based on service-connected death
Section 5.639 Transportation expenses for burial in a national cemetery
Section 5.643 Burial allowance based on nonservice-connected death
Section 5.644 Burial allowance for veterans who died while hospitalized by VA
Section 5.645 Plot or interment allowance
Section 5.649 Priority of payments when there is more than one claimant
Section 5.650 Escheat (payment of burial benefits to an estate with no heirs)
Section 5.651 Effect of contributions by government, public, or private organizations
Section 5.652 Effect of forfeiture on payment of burial benefits
Section 5.653 Eligibility based on status before 1958
Endnote Regarding Amendatory Language
Paperwork Reduction Act of 1995
Regulatory Flexibility Act
Executive Order 12866
Unfunded Mandates
Catalog of Federal Domestic Assistance Numbers and Titles
List of Subjects in 38 CFR Part 5

Overview of New Part 5 Organization

We plan to organize the new part 5 regulations so that most provisions governing a specific benefit are located in the same subpart, with general provisions pertaining to all compensation and pension benefits also grouped together. This organization will allow claimants, beneficiaries, and their representatives, as well as VA adjudicators, to find information relating to a specific benefit more quickly than the organization provided in current part 3.

The first major subdivision would be ''Subpart A—General Provisions.'' It would include information regarding the scope of the regulations in new part 5, general definitions, and general policy provisions for this part. This subpart was published as proposed on March 31, 2006. *See* 71 FR 16464.

''Subpart B—Service Requirements for Veterans'' would include information regarding a veteran's military service, including the minimum service requirement, types of service, periods of war, and service evidence requirements. This subpart was published as proposed on January 30, 2004. *See* 69 FR 4820.

''Subpart C—Adjudicative Process, General'' would inform readers about claims and benefit application filing procedures, VA's duties, rights and responsibilities of claimants and beneficiaries, general evidence requirements, and general effective dates for new awards, as well as

revision of decisions and protection of VA ratings. This subpart will be published as three separate Notices of Proposed Rulemaking (NPRMs) due to its size. The first, concerning the duties of VA and the rights and responsibilities of claimants and beneficiaries, was published as proposed on May 10, 2005. *See* 70 FR 24680. The second, covering general evidence requirements, effective dates for awards, revision of decisions, and protection of VA ratings, was published as proposed on May 22, 2007. *See* 72 FR 28770.

''Subpart D—Dependents and Survivors'' would inform readers how VA determines whether an individual is a dependent or a survivor for purposes of determining eligibility for VA benefits. It would also provide the evidence requirements for these determinations. This subpart was published as proposed on September 20, 2006. *See* 71 FR 55052.

''Subpart E—Claims for Service Connection and Disability Compensation'' would define service-connected disability compensation and service connection, including direct and secondary service connection. This subpart would inform readers how VA determines service connection and entitlement to disability compensation. The subpart would also contain those provisions governing presumptions related to service connection, rating principles, and effective dates, as well as several special ratings. This subpart will be published as three separate NPRMs due to its size. The first, concerning presumptions related to service connection, was published as proposed on July 27, 2004. *See* 69 FR 44614.

''Subpart F—Nonservice-Connected Disability Pensions and Death Pensions'' would include information regarding the three types of nonservice-connected pension: Old-Law Pension, Section 306 Pension, and Improved Pension. This subpart would also include those provisions that state how to establish entitlement to Improved Pension and the effective dates governing each pension. This subpart was published as two separate NPRMs due to its size. The portion concerning Old-Law Pension, Section 306 Pension, and elections of Improved Pension was published as proposed on December 27, 2004. *See* 69 FR 77578. The portion concerning eligibility and entitlement requirements, as well as effective dates for Improved Pension was published as proposed on September 26, 2007. *See* 72 FR 54776.

''Subpart G—Dependency and Indemnity Compensation, Death Compensation, Accrued Benefits, and Special Rules Applicable Upon Death of a Beneficiary'' would contain regulations governing claims for dependency and indemnity compensation (DIC); death compensation; accrued benefits; benefits awarded, but unpaid at death; and various special rules that apply to the disposition of VA benefits, or proceeds of VA benefits, when a beneficiary dies. This subpart would also include related definitions, effective-date rules, and rate-of-payment rules. This subpart was published as two separate NPRMs due to its size. The portion concerning accrued benefits, death compensation, special rules applicable upon the death of a beneficiary, and several effective-date rules, was published as proposed on October 1, 2004. *See* 69 FR 59072. The portion concerning DIC benefits and general provisions relating to proof of death and service-connected cause of death was published as proposed on October 21, 2005. *See* 70 FR 61326.

''Subpart H—Special and Ancillary Benefits for Veterans, Dependents, and Survivors'' would pertain to special and ancillary benefits available, including benefits for children with various birth defects. This subpart was published as proposed on March 9, 2007. *See* 72 FR 10860.

''Subpart I—Benefits for Certain Filipino Veterans and Survivors'' would pertain to the various benefits available to Filipino veterans and their survivors. This subpart was published as proposed on June 30, 2006. *See* 71 FR 37790.

''Subpart J—Burial Benefits'' would pertain to burial allowances. This subpart is the subject of this document.

''Subpart K—Matters Affecting the Receipt of Benefits'' would contain provisions regarding bars to benefits, forfeiture of benefits, and renouncement of benefits. This subpart was published as proposed on May 31, 2006. *See* 71 FR 31056.

''Subpart L—Payments and Adjustments to Payments'' would include general rate-setting rules, several adjustment and resumption regulations, and election-of-benefit rules. Because of its size, proposed regulations in subpart L will be published in two separate NPRMs. The first, concerning payments to beneficiaries who are eligible for more than one benefit, was published as proposed on October 2, 2007. *See* 72 FR 56136.

The final subpart, ''Subpart M—Apportionments to Dependents and Payments to Fiduciaries and Incarcerated Beneficiaries,'' would include regulations governing apportionments, benefits for incarcerated beneficiaries, and guardianship.

Some of the regulations in this NPRM cross-reference other compensation and pension regulations. If those regulations have been published in this or earlier NPRMs for the Project, we cite the proposed part 5 section. We also include, in the relevant portion of the Supplementary Information, the **Federal Register** page where a proposed part 5 section published in an earlier NPRM may be found. However, where a regulation proposed in this NPRM would cross-reference a proposed part 5 regulation that has not yet been published, we cite to the current part 3 regulation that deals with the same subject matter. The current part 3 section we cite may differ from its eventual part 5 counterpart in some respects, but this method will assist readers in understanding these proposed regulations where no part 5 counterpart has yet been published. If there is no part 3 counterpart to a proposed part 5 regulation that has not yet been published, we have inserted ''[regulation that will be published in a future Notice of Proposed Rulemaking]'' where the part 5 regulation citation would be placed.

Because of its large size, proposed part 5 will be published in a number of NPRMs, such as this one. VA will not adopt any portion of part 5 as final until all of the NPRMs have been published for public comment.

In connection with this rulemaking, VA will accept comments relating to a prior rulemaking issued as a part of the Project, if the matter being commented on relates to both rulemakings.

Overview of Proposed Subpart J Organization

This NPRM pertains to burial benefits. These regulations would be contained in proposed Subpart J of new 38 CFR part 5. Although these regulations have been substantially restructured and rewritten for greater clarity and ease of use, most of the basic concepts contained in these proposed regulations are the same as in their existing counterparts in 38 CFR part 3. However, a few substantive differences are proposed, as are some regulations that do not have counterparts in 38 CFR part 3.

Table Comparing Current Part 3 Rules With Proposed Part 5 Rules

The following table shows the relationship between the current regulations in part 3 and the proposed regulations contained in this NPRM:

Proposed part 5 section or paragraph	Based in whole or in part on 38 CFR part 3 section or paragraph (or "New")
5.630	New
5.631(a)(1), (2)	3.1600 [first sentence]
5.631(a)(3)	New
5.631(b)	3.1600 [second sentence]
5.631(c)	3.1600(d)
5.632	3.1601(a)(1) and (2)
5.633(a)	3.1601(a)
5.633(b)(1)	3.1601(b)
5.633(b)(2)	3.203(c) [second sentence]
5.634(a)	New
5.634(b)(1)	3.1607
5.634(b)(2), (3)	3.1608
5.635	3.1606
5.636	3.1600(b)(3), 3.1601(b)(5), 3.1603, 3.1610(b)
5.638(a)	3.1600(a)
5.638(b)	New
5.638(c)(1)	3.1600(g)
5.638(c)(2)	New
5.639(a) and (b)	3.1600(g)
5.639(c)	New
5.643	3.1600(b)(1), (2), and (4)
5.644(a)	3.1600(c); 3.1605 (intro paragraph)
5.644(b)(1)–(4)	3.1600(c)
5.644(b)(5)	3.1605(a)
5.644(b)(6)	3.1605(d)
5.644(c)	3.1605(a)
5.644(d)	3.1605(b)
5.645(a)	3.1604(d)(1)(i) through (iv) and (d)(3)
5.645(b)	3.1600(f)
5.645(c)	3.1601(a)(3)
5.649(a)	3.1602(b); 3.1604(d)(4)
5.649(b)	3.1602(a)
5.649(c)	3.1602(c)
5.649(d)	3.1601(a)(2)(iii) [second and third sentences]
5.649(e)	3.1601(a)
5.650	3.1602(d)
5.651(a), (b)	3.1604(a) and (c); 3.1604(a)(2)
5.651(c)(1)	3.1604(b)(1) and (2)
5.651(c)(2)	3.1604(b)(3)
5.651(c)(3)	New
5.651(d)	3.1604(a)(1)
5.652	3.1609
5.653	3.954

Readers who use this table to compare existing regulatory provisions with the proposed provisions, and who observe a substantive difference between them, should consult the text that appears later in this document for an explanation of significant changes in each regulation. Not every paragraph of every current part 3 section regarding the subject matter of this rulemaking is accounted for in the table. In some instances, other portions of the part 3 sections that are addressed in these proposed regulations will appear in subparts of part 5 that are being published separately for public comment. For example, a reader might find a reference to paragraph (a) of a part 3 section in the table, but no reference to paragraph (b) of that section because paragraph (b) will be addressed in a separate NPRM. The table also does not include provisions from part 3 regulations that will not be repeated in part 5. Such provisions are discussed specifically under the appropriate part 5 heading in this preamble. Readers are invited to comment on the proposed part 5 provisions and also on our proposals to omit those part 3 provisions from part 5.

Content of Proposed Regulations

Generally Applicable Provisions

Section 5.630 Types of VA Burial Benefits

In order to give the public a general overview of the burial benefits VA provides, we propose to add § 5.630. This section lists each type of burial benefit described in this proposed rule and also those VA burial benefits described in other statutes or VA regulations.

Section 5.631 Deceased Veterans for Whom VA May Provide Burial Benefits

Proposed § 5.631, would set forth requirements as to the service of the deceased person for whom VA May provide monetary burial benefits.

Proposed paragraph (a) would define ''veteran'' for purposes of eligibility for monetary burial benefits as including a person who met one of three criteria. The first is, ''[h]ad active military service,'' the definition contained in the first paragraph of proposed § 5.1, ''General definitions.'' *See* 71 FR 16464, 16474 (Mar. 31, 2006). We believe this definition is consistent with congressional intent that the definition of veteran contained in 38 U.S.C. 101(2) should apply to burial benefit claims under 38 U.S.C. chapter 23. The second is, ''[d]ied during authorized travel to or from a period of active duty under § 5.29(a)(1),'' and is based on the introductory paragraph of current 38 CFR 3.1600. (Section 5.29(a)(1) is the part 5 counterpart to current § 3.6(b)(6) and was published as proposed on January 30, 2004. *See* 69 FR 4820, 4837.) The third is, ''entitled to a burial benefit based on a specific provision of law.'' An example of such a specific provision would be 46 U.S.C. 11201(a) (providing entitlement to burial allowance to Merchant Mariners who served between August 16, 1945, and December 31, 1946, who meet the requirements of 46 U.S.C. 11201–11204).

In describing deceased veterans upon whom a claimant may base a claim for burial benefits, we propose not to include current § 3.1600(e), which begins, ''Except as provided in § 3.1605(c) burial allowance is not payable in the following cases,'' and then lists five classes of individuals. Other part 5 regulations explaining the requirements for recognition as a veteran would establish whether the listed persons are eligible for burial benefits. Accordingly, reiterating those classes of individuals in proposed § 5.631 is unnecessary and could be misleading in that it would be only a partial list of ineligible persons. The exceptions stated in current § 3.1605(c) are discussed below with regard to proposed § 5.644.

Proposed paragraphs (b) and (c) are consistent with the second sentence of the introductory paragraph of current § 3.1600 and with § 3.1600(d), respectively. Proposed paragraph (c) differs from the current rule in that under the proposed rule, VA is not bound by a service department holding that a deceased veteran's disability was not incurred in line of duty when ''VA receives evidence that permits a different finding.'' Under current § 3.1600(d), VA is similarly not bound when VA receives such evidence; however, § 3.1600(d) refers to evidence being ''submitted.'' We would use the word ''receives'' in the proposed regulation because VA may rely on evidence that we obtain through means other than submission by a claimant or third party.

Section 5.632 Persons Who May Receive Burial Benefits

Proposed § 5.632 would describe in plain language those individuals to whom VA may pay monetary burial benefits. The regulation would begin by stating the general principle that VA may grant a claim for burial benefits filed by any individual for a burial expense reimbursable by VA under this subpart, up to the amount of the applicable statutory burial allowance. The part 3 burial regulations do not explicitly state this rule, but the principle is implicit therein and this rule reflects VA's actual practice.

The remainder of proposed § 5.632 is based on current § 3.1601(a)(1) and (2). The proposed language would not repeat redundant language used in the current rule, but does not contain any substantive change from current VA rules or practices.

Section 5.633 Claims

Proposed § 5.633(a) clearly states the time limits mandated by statute for filing claims for burial benefits. Under 38 U.S.C. 2304, ''[a]pplications for payments under section 2302 of [title

38, United States Code,] must be filed within 2 years after the burial of the veteran.'' Section 2302 provides authority for VA to pay the nonservice-connected burial allowance. Notwithstanding that there are no other time limitations contained within title 38, United States Code, on filing claims for burial benefits, the first sentence of current § 3.1601(a) applies a two-year time limit to ''[c]laims for reimbursement or direct payment of burial and funeral expenses under § 3.1600(b) [the nonservice-connected burial allowance] and plot or interment allowance under § 3.1600(f).'' Similarly, the second and third sentences of current § 3.1604(d)(2) specify a two-year time limit for claims for the plot or interment allowance under § 3.1604(d). The plot or interment allowance is authorized by 38 U.S.C. 2303(b), and therefore the statutory two-year time limit does not apply to the plot or interment allowance. In proposed part 5, we would apply only the statutory time limitation. The proposed rule would also clarify that no other time limitations apply to claims for burial benefits under this subpart.

Proposed § 5.633(b)(1) describes the evidence that is needed to substantiate a claim for burial benefits. Paragraph (b) contains the following substantive differences from the current regulations upon which it is based.

Proposed paragraph (b)(1) would require that VA ''receive'' the evidence described, whereas current § 3.1601(b) requires that the claimant ''submit'' such evidence. The proposed language recognizes that VA may obtain relevant evidence on its own initiative and mirrors the language of the authorizing statute. *See* 38 U.S.C. 2304 (VA must deny claim ''[i]f such evidence is not received within 1 year from the date'' VA notifies claimant that application is incomplete).

Proposed paragraph (b)(1)(ii) would require proof of death ''in accordance with § 5.500,'' whereas current § 3.1601(b)(3) requires proof of death ''in accordance with § 3.211.'' In part 5, § 5.500 would contain the rule set forth at § 3.211. *See* 70 FR 61326, 61341 (Oct. 21, 2005).

Current § 3.1601(b)(1) requires claimants to provide a ''[s]tatement of account'' showing, ''[the] name of the deceased veteran, the plot or interment costs, and the nature and cost of services rendered, and unpaid balance.'' In proposed paragraph (b)(1)(iii), we propose to add ''any credits or payments received'' to this list because if expenses were paid, partially or entirely, by someone other than the claimant, that would affect the amount of entitlement to VA burial benefits.

Proposed paragraph (b)(1)(iv) would allow claimants to provide a receipt showing payment to a representative of the funeral director and/or cemetery owner, as permitted by current § 3.1601(b)(2), or directly to the funeral director and/or cemetery owner. The proposed addition reflects long-standing VA practice and recognizes the fact that payments are sometimes made directly to the funeral director and/or cemetery owner. Additionally, paragraph (b)(1)(iv) would state that receipts for transportation charges must also show the dates of the services rendered, the name of the deceased veteran who was transported, and the name of the person who paid the transportation charges. This detail is added because VA needs such information in order to ensure accuracy in its adjudication of claims for reimbursement of transportation charges.

Proposed paragraph (b)(2) is derived from the second sentence of current § 3.203(c), which states that in a claim for nonservice-connected benefits, evidence of service that VA relied upon to award compensation or pension during a veteran's lifetime will be sufficient to prove military service, unless there is some other evidence which creates doubt as to the correctness of that evidence of service.

Section 5.634 Reimbursable Burial Expenses—General

Burial expenses and funeral expenses are factually distinct categories. The relevant statutes treat burial expenses and funeral expenses the same for purposes of eligibility for VA burial benefits. Title 38 U.S.C. 2302 is titled, ''Funeral expenses'', but in paragraphs (a) and (b) it refers to ''burial and funeral expenses'' without distinguishing between them. Title 38 U.S.C. 2303(a)(1)(A) refers to ''the cost * * * of the burial and funeral'' again without distinction.

Current VA regulations use the terms burial expenses and funeral expenses inconsistently. To ensure that part 5 uses consistent terminology, proposed § 5.634(a) defines the term ''burial expenses'' for purposes of this subpart as ''expenses of the funeral, transportation, and plot or interment.'' Throughout proposed subpart J of part 5, we have used the term ''burial expenses'' to refer to the aggregate of these categories of expenses. Proposed paragraph (a) also states that, generally, VA will reimburse burial expenses up to the applicable statutory limit. Part 3 of title 38, CFR, does not contain comparable language, and we believe it is useful to state this general principle before specifically describing what VA will not provide reimbursement for, as is provided in current part 3.

Paragraph (b) of proposed § 5.634 is based on current §§ 3.1607 and 3.1608, both of which bar reimbursement for particular items. The proposed rule reflects a clear and more contemporary articulation of these rules.

Paragraph (b)(1) is based on current § 3.1607, which states: ''No reimbursement will be authorized for the cost of a burial flag privately purchased by relatives, friends, or other parties but such cost may be included in a claim for the burial allowance.'' The proposed rule would bar reimbursement for the expense of a ''privately purchased burial flag, except when VA was unable to provide a burial flag.'' The proposed language would not identify the private purchaser as coming from among ''relatives, friends, or other parties'' because the specific identity of the private purchaser is not relevant to whether VA will allow reimbursement.

The proposed rule also does not include the phrase, ''but such cost may be included in a claim for the burial allowance,'' because that phrase, contained in current § 3.1607, has generated confusion by appearing to contradict the rule that the cost of flags is not generally an allowable expense. The proposed rule accurately reflects VA's policy and practice, which is that VA will allow a claim for reimbursement for the purchase of a flag only when claimed as an expense in a case where VA was unable to provide a burial flag.

Proposed paragraph (b)(3) would liberalize the rule stated at current 3.1608, which bars reimbursement for ''[a]ccessory items[, s]uch as items of food and drink.'' We propose to modify this rule for purposes of part 5 such that under the proposed rule VA will not reimburse the expense of an item or service that is not necessary or related to the funeral, burial, or transportation of the deceased veteran. We wish to allow reimbursement for expenses related to a funeral, which may in some cases include food or drink. By barring reimbursement only for expenses not necessary or related to the funeral, burial, or transportation of the deceased veteran, we believe the regulation is fair and easy to understand and apply.

Section 5.635 Reimbursable Transportation Expenses for Veterans Who Are Buried in a National Cemetery or Who Died While Hospitalized by VA

Proposed § 5.635 restates current § 3.1606. The only changes are technical changes necessary to conform to other

proposed part 5 regulations and to the current requirements for publication in the **Federal Register**.

Section 5.636 Burial of Veterans Whose Remains Are Unclaimed

Proposed § 5.636 is based on current §§ 3.1600(b)(3), 3.1601(b)(5), and 3.1603. Section 3.1603, ''Authority for burial of certain unclaimed bodies,'' states, in pertinent part:

> If the body of a deceased veteran is unclaimed, there being no relatives or friends to claim the body, and there is burial allowance entitlement which is not based on § 3.1600(b)(3), the amount provided for burial and plot or interment allowance will be available for the burial upon receipt of a claim accompanied by a statement showing what efforts were made to locate relatives or friends.

We believe that there is no need to retain the requirement for a statement showing what efforts were made to locate relatives or friends, because payments under 38 U.S.C. 2307 (discussed in § 5.638 of this proposed rulemaking), 38 U.S.C. 2302(a)(1) (discussed in § 5.643 of this proposed rulemaking), and/or 38 U.S.C. 2303(b) (discussed in § 5.645 of this proposed rulemaking) are not dependent upon whether the remains were claimed or unclaimed. We have, therefore, excluded this requirement from proposed § 5.636(a)(1), (b), and (c). Because 38 U.S.C. 2302(a)(2) does include this requirement, we have included the requirement in proposed § 5.636(a)(2).

Burial Benefits Based on Service-Connected Death

Section 5.638 Burial Allowance Based on Service-Connected Death

The second and third groups of part 5 regulations governing monetary burial benefits would be organized under the undesignated subheadings, ''Burial Benefits Based on Service-Connected Death'' and, ''Burial Benefits Payable Regardless of Whether the Death Was Service-Connected.'' The service-connected burial allowance would be governed by § 5.638.

Proposed paragraph (a) would state the general rules regarding eligibility for and the amount of the service-connected burial allowance, *i.e.*, the burial allowance based on service-connected death, which are derived from current § 3.1600(a) without substantive revision. In addition, proposed paragraph (a) would clarify that a service-connected death is one described in § 5.504. Section 5.504 was published as proposed on October 21, 2005. *See* 70 FR 61326, 61342.

The last sentence of proposed paragraph (a) states that, subject to paragraph (c) of this section, payment of the service-connected burial allowance is in lieu of other allowances authorized by this subpart and is subject to the applicable further regulations in this subpart. This is based on the second-to-last sentence in current § 3.1600(a), which makes entitlement to the service-connected burial allowance subject to the applicable further provisions of that section and §§ 3.1601 through 3.1610. The proposed regulation replaces the regulation numbers with the reference to ''this subpart'' because all of subpart J of part 5, title 38, CFR, would be dedicated to burial regulations. We have proposed similar language in paragraph (a) of § 5.643, governing the nonservice-connected burial allowance. The current version of that rule is also subject to other applicable burial regulations. *See* 38 CFR 3.1600(b)(4).

Proposed paragraph (b) contains new material that reflects developments in the law subsequent to the promulgation of current § 3.1600. It provides that VA will not pay the service-connected burial allowance in two described circumstances. First, under proposed paragraph (b)(1), VA would not pay the service-connected burial allowance when compensation for the cause of the veteran's death is payable only under 38 U.S.C. 1151. Under section 1151, VA will provide compensation for certain disabilities or death caused by VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy program ''as if'' such disability or death were service connected. An award of the service-connected burial allowance in such cases is precluded by the decision of the United States Court of Appeals for Veterans Claims (CAVC) in *Mintz* v. *Brown*, 6 Vet. App. 277, 282–83 (1994). In that case, the CAVC held that the widow of a veteran was not entitled to service-connected burial benefits ''unless service connection is established under a statutory provision other than 38 U.S.C. 1151.'' *Id.* The proposed regulation is also consistent with *Alleman* v. *Principi*, 349 F.3d 1368, 1371 (Fed. Cir. 2003), which stated that ''on its face section 1151 only grants compensation under chapter 11 and chapter 13 of title 38,'' United States Code. In *Alleman*, the Court noted further that although section 1151 creates entitlement to housing benefits, ''there is no basis in either the language of the pertinent statutes or their background that would justify construing section 1151 to entitle'' a claimant to National Service Life Insurance. *Id.* at 1372–73.

Similar to 38 U.S.C. 1151, 38 U.S.C. 1318 provides compensation to the surviving spouse and to the children of a deceased veteran as if the veteran's death were service-connected, after certain criteria are met. Proposed paragraph (b)(2) would bar payment of the service-connected burial allowance based on receipt of dependency and indemnity compensation under section 1318. The rationale for proposed paragraph (b)(2) is similar to the rationale for proposed paragraph (b)(1): No statutory language expressly authorizes service-connected burial compensation based on the widow or child's receipt of compensation ''as if'' the veteran's death were service connected pursuant to 38 U.S.C. 1318.

A similar provision appears in this NPRM at proposed § 5.639(c), which would bar payment for transportation expenses based on entitlement to compensation under sections 1151 or 1318. We would add that paragraph for the reasons described above.

Proposed paragraph (c)(2) authorizes VA to pay the plot or interment allowance for burial in a State veterans cemetery under § 5.645(a), in addition to the service-connected burial allowance. This reflects the amendment made to 38 U.S.C. 2307 by section 501 of the Veterans Benefits Act of 2003, Pub. L. No. 108–183, 117 Stat. 2651, 2666–67. Prior to the enactment of Public Law No. 108–183, title 38, United States Code, did not authorize a separate plot or interment allowance where VA paid the burial allowance for service-connected death.

Proposed §§ 5.638, 5.643 (concerning the nonservice-connected burial allowance), and 5.645 (concerning the plot or interment allowance) do not refer to current 38 CFR 3.40 (or the part 5 counterpart thereto), which is referenced by current § 3.1600(a), (b), and (f). The reference in the current regulation provides for the payment of burial benefits for certain Filipino veterans. We have proposed a separate group of regulations in part 5, subpart I, which will govern the administration of VA benefits to Filipino veterans. *See* 71 FR 37790 (June 30, 2006). In view of this centralized organization, there is no need to refer to such veterans here in subpart J.

Section 5.639 Transportation Expenses for Burial in a National Cemetery

Proposed § 5.639 implements 38 U.S.C. 2308. Paragraphs (a) and (b) are derived from and consistent with current § 3.1600(g). Proposed paragraph (c) consists of new material, as

discussed earlier in this NPRM in our explanation of § 5.638(b).

Burial Benefits Payable Regardless of Whether the Death Was Service-Connected

Section 5.643 Burial Allowance Based on Nonservice-Connected Death

The nonservice-connected burial allowance would be governed by § 5.643, which is based on current § 3.1600(b). Proposed § 5.643(a) states the general rules governing when VA will pay the nonservice-connected burial allowance and what amount may be paid, using construction similar to proposed § 5.638. Proposed § 5.643(b) would set forth eligibility requirements that are consistent with the requirements of current § 3.1600(b)(1) and (2), except as noted below.

Current § 3.1600(b)(2) provides eligibility for the nonservice-connected burial allowance if the deceased veteran had a ''reopened claim'' for pension or disability compensation pending at the time of the veteran's death. Rather than refer to a ''reopened claim,'' in proposed paragraph (b)(3) we would refer to a ''claim to reopen.'' The rationale for awarding death benefits based on a pending claim is that the veteran would have met the prerequisite for an award of the nonservice-connected burial allowance (*i.e.*, the veteran would have been receiving disability compensation or pension effective before the day the veteran died) if the veteran had not died before VA granted the veteran's claim for compensation or pension. Thus, it is important that the veteran's claim to reopen was filed, but it matters less whether VA actually reopened the claim (but had yet to award benefits thereon). In other words, the proposed language more accurately describes the regulatory requirement that the veteran have initiated the claims-adjudication process during his or her lifetime and that the claim is still pending. The use of the phrase ''claim to reopen'' rather than ''reopened claim'' does not represent a substantive change; it merely clarifies the intended effect of § 3.1600(b)(2).

Current § 3.1600(b)(2) further requires that for eligibility for the nonservice-connected burial allowance, not only must the deceased veteran have had a claim pending at the time of his or her death, but also that there have been sufficient ''evidence of record'' prior to the veteran's death for VA to have granted pension or disability compensation. We believe it would be helpful to clarify the meaning intended by ''evidence of record'' for the public. We propose to use the phrase, ''evidence in the claims file on the date of the veteran's death'', which is more explicit, and to define it in § 5.643(c) as, ''evidence in VA's possession on or before the date of the deceased veteran's death, even if such evidence was not physically located in the VA claims file on or before the date of death.'' This is consistent with the manner in which VA adjudicates claims for accrued benefits by the survivors of deceased veterans (see § 5.550(g), published as proposed at 69 FR 59072, 59085), and with VA's long-standing practice for adjudicating claims under § 3.1600(b)(2). We also believe it is fair to claimants and places a reasonable burden upon VA adjudicators to be constructively in possession of evidence located in VA medical centers or similar VA facilities.

Proposed paragraph (d) states that if the veteran had either an original claim or a claim to reopen pending at the time of death but the information in the claims file was not sufficient to award pension or disability compensation effective before the date of death, VA will request such evidence. If the evidence is not received within 1 year from the date of the request, VA will not award the burial allowance. The current regulation, § 3.1600(b)(2) may be subject, incorrectly, to a more limited interpretation, because the current version of this provision appears in a paragraph, § 3.1600(b)(2)(ii), dealing only with a reopened claim. We believe it will be clearer if the proposed regulation specifically refers to both a pending original claim and a pending claim to reopen.

Proposed paragraph (e) would identify the additional burial benefits—plot allowance and transportation expenses—potentially available in cases of non-service-connected death and would provide cross-references to the regulations governing those payments. Pursuant to 38 U.S.C. 2308, transportation expenses would not be payable for all nonservice-connected deaths, but only where the veteran was in receipt of compensation rather than pension. Proposed paragraph (e) would reflect this limitation.

Section 5.644 Burial Allowance for Veteran Who Died While Hospitalized by VA

Proposed § 5.644 would implement the third burial allowance authorized by title 38, United States Code, which is the allowance provided for a veteran who died while hospitalized by VA, set forth at 38 U.S.C. 2303. Except as noted below, proposed § 5.644 restates rules found in current §§ 3.1600(c) and 3.1605, without substantive change.

The last sentence of proposed paragraph (a) states, ''Payment under this section is subject to the applicable further regulations in this subpart.'' Current § 3.1605 states that ''[t]he amount payable under this section is subject to the limitations set forth in paragraph (b) of this section, and §§ 3.1604 and 3.1606.'' It is true that the amount payable under the current rule is subject to such limitations. However, it is also true that the other provisions of current § 3.1605, *i.e.*, those that do not relate to the amount payable, are subject to other applicable limitations set forth in the part 3 burial regulations. Thus, we would use broader language in the proposed rule.

We propose not to include in part 5 the rule in current § 3.1605(b) that denies eligibility for transportation expenses to ''retired persons hospitalized under section 5 of Executive Order 10122 * * * issued pursuant to Pub. L. 351, 81st Congress, and not as Department of Veterans Affairs beneficiaries.'' Section 5 of Executive Order 10122 related to current and former service members who had been hospitalized for chronic diseases between May and October of 1950. Executive Order 10122 is more than half a century old and applied to a very small group of veterans. The reference is outdated and no longer necessary.

Current § 3.1605(c) extends entitlement to burial benefits to the following persons who die while properly hospitalized by the Department of Veterans Affairs: (1) Discharged or rejected draftees; (2) Members of the National Guard who reported to camp in answer to the President's call for World War I, World War II, or Korean service, but who when medically examined were not finally accepted for active military service; or (3) A veteran discharged under conditions other than dishonorable from a period of service other than a war period. We propose not to include such a provision in part 5. With respect to persons described in § 3.1605(c)(1) and (2) (draftees and National Guard members not accepted for active service), proposed § 5.26 sets forth the circumstances under which they may be eligible for VA benefits. (Proposed § 5.26 is the part 5 counterpart to current § 3.7(o) and was published on January 30, 2004. *See* 69 FR 4820, 4835.) Regarding veterans discharged under conditions other than dishonorable from a period of service other than a war period, they are included in the definition of veteran under § 5.631(a)(1) and, as such, are eligible for burial benefits. Accordingly,

it is unnecessary to include those provisions in this regulation.

The proposed rule would also not incorporate the rule currently in § 3.1605(e) that states: ''Where a deceased person was not properly hospitalized, benefits will not be authorized under this section.'' Proposed § 5.644 clearly authorizes benefits only to persons who die while hospitalized pursuant to statutory authorities specified in that rule or who meet other criteria set forth in the rule. The proposed rule in no way suggests that it establishes additional entitlement to a person who was not hospitalized pursuant to statutory authorities within the definition of the rule. Including an express statement to that effect, such as that contained in § 3.1605(e), is unnecessary.

Section 5.645 Plot or Interment Allowance

In proposed § 5.645, we would include all of the rules governing awards of a plot or interment allowance. These rules currently appear in three different regulations, §§ 3.1600(f), 3.1601(a)(3), and 3.1604(d). We propose not to include the first sentence of current § 3.1604(d)(2), ''A claim for payment under this paragraph shall be executed by a State, or an agency or political subdivision of a state on a claim form prescribed by the Department of Veterans Affairs'' because it is redundant of the provision in current § 3.151(a), and we intend to propose a part 5 counterpart to current § 3.151(a) in a separate NPRM.

The relevant authorizing statutes have been amended by the Veterans Benefits Act of 2003, Public Law 108–183, Sec. 501, 117 Stat. 2651, 2666–67. Section 501 of Public Law 108–183 removed the previously existing barrier that prevented VA from paying the plot or interment allowance based on the burial of a veteran on whose behalf VA also provided the service-connected burial allowance; however, the amendment only removed that barrier as to the plot or interment allowance payable to a State, or an agency or political subdivision of a State, under 38 U.S.C. 2302(b)(1). VA continues to lack authority to provide the plot or interment allowance payable under 38 U.S.C. 2302(b)(2) based on the burial of a veteran on whose behalf VA also provided the service-connected burial allowance. Hence, paragraph (a) of the proposed rule conforms to the requirements of the new statute.

Proposed § 5.645(a) would govern payment of the burial allowance under section 2303(b)(1), implementing the changes made by Public Law 108–183. Under the proposed rule, VA would pay the plot or interment allowance in the amount specified in 38 U.S.C. 2303(b)(1) to a State, or an agency or political subdivision of a State, that provided a burial plot for a veteran when the veteran meets the described criteria. Proposed paragraph (a) would note, in parentheses, that the plot or interment allowance is payable under paragraph (a) ''without regard to whether any other burial benefits were provided based on that veteran.'' We would include this language for clarity, due to the newness of the change in the law on this subject.

In addition to being revised based on Public Law 108–183, the proposed rule would not include the caveat from current § 3.1604(d)(1)(v) that payment will be authorized only if ''[t]he veteran was buried on or after October 1, 1978.'' It is unlikely in the extreme that VA will receive claims for the plot or interment allowance, especially claims by a State, or an agency or political subdivision of a State, based upon a burial that occurred 30 years ago. Hence, the reference is no longer useful.

Proposed § 5.645(b) is substantively similar to current § 3.1600(f); however, the proposed rule contains a technical correction for the purpose of restating that rule in part 5. Current § 3.1600(f)(2)(iii) offers entitlement to the plot or interment allowance, *inter alia*, when:

> The veteran was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty (or at time of discharge has such a disability, shown by official service records, which in medical judgment would have justified a discharge for disability; the official service department record showing that the veteran was discharged or released from service for disability incurred in line of duty will be accepted for determining entitlement to the plot or interment allowance notwithstanding that the Department of Veterans Affairs has determined, in connection with a claim for monetary benefits, that the disability was not incurred in line of duty) * * *.

38 CFR 3.1600(f)(2)(iii). The material that appears before the semicolon in the above paragraph is the extent of the material that should have appeared within the parenthetical. After the semicolon, the regulation describes evidence showing a discharge from service due to disability, which clearly applies only to a veteran who was ''discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty'' as referenced before the parenthetical begins. The material that appears within the parenthetical but before the semicolon refers to a veteran who was not discharged due to disability, but who could have been so discharged based on other medical evidence. This represents a technical error in part 3. We would not duplicate the problem contained in the part 3 version of the rule by reorganizing the material as shown in the proposed regulation. The substantive effect of the rule, as reorganized, is consistent with other part 3 rules that contain language similar to § 3.1600(f)(2)(iii) but without the technical error therein. *See, e.g.*, 38 CFR 3.3(a)(1)(ii), 3.12a(d)(2).

Special Rules Governing Payments

Section 5.649 Priority of Payments When There Is More Than One Claimant

Proposed § 5.649 would describe the order in which VA will reimburse multiple claimants for burial benefits.

Under the current rule, VA will pay providers of services before paying ''persons whose personal funds were expended.'' 38 CFR 3.1602(b). In turn, people who used personal funds take priority over estates. 38 CFR 3.1602(c). Thus, under the current rule VA will reimburse a claimant who performed services or provided items (including a burial plot) and who has not been fully paid for the services or items first; next, VA will reimburse persons who expended personal funds; and last, VA will reimburse an estate. The current rule does not set forth this hierarchy in order of preference for payment. Proposed § 5.649(a) through (c) would do so. The proposed paragraphs would be more straightforward than the current rule, but would not alter the existing payment hierarchy.

Proposed paragraph (a) differs from current § 3.1602(b) in that the proposed rule would offer payment preference to claimants who ''provided items.'' The current rule provides preference to persons who ''performed * * * services or furnished the burial plot.'' The current reference to ''services'' is intended to include items such as a coffin. The proposed use of the term, ''items,'' is merely a clarification of current VA policy.

Proposed paragraph (d) discusses payment priority in claims for the plot or interment allowance. It incorporates current rules from §§ 3.1601(a)(2)(iii) and 3.1604(d)(4).

Proposed § 5.649(e) would clarify the current rule regarding waivers. Current § 3.1602(a) states that, if two or more persons have paid from their personal funds, burial benefits will be divided among such persons in accordance with the proportionate share paid by each, unless waiver is executed in favor of one of such persons by the other person or persons involved. The placement of

the waiver rule in the context of a paragraph titled, ''Two or more persons expended funds,'' suggests that waiver only applies to persons who used personal funds to pay burial expenses. However, VA will accept as valid a waiver from any claimant. Thus, we propose to place the waiver rules in a separate paragraph that clearly applies to the entire section.

Section 5.650 Escheat (Payment of Burial Benefits to an Estate With No Heirs)

Proposed § 5.650 restates the rule in cases of escheat, which appears in current § 3.1602(d). We would place the rule in its own regulation because it does not logically fit any other proposed rule.

Section 5.651 Effect of Contributions by Government, Public, or Private Organizations

Proposed § 5.651 would provide special rules that apply when the deceased veteran's burial expenses have been paid for, in part or in full, by certain governmental and non-governmental organizations.

Proposed paragraph (a) restates the first sentence of current § 3.1604(a), with the clarification that the rule applies to all types of expenses that may be paid as ''burial benefits.'' The current rule uses the term ''burial expenses,'' which for the reasons explained above concerning proposed § 5.634, may have lead to the misperception that VA will not consider contributions by public or private organizations when VA is presented with a claim for reimbursement of expenses related to the transportation of the remains or the purchase of a burial plot. Proposed § 5.634 would clarify this matter by defining ''burial expenses'' to include transportation and plot expenses. To further clarify that proposed § 5.651 would apply to all such expenses, paragraph (a) would state that the rule applies to claims for ''burial benefits.'' These clarififcations also eliminate the need for current § 3.1604(c), which states that the rule in current § 3.1604(a) applies to the plot or interment allowance. The proposed rule would clarify that the limitations contained in current § 3.1604(a) and (c) only apply to nonservice-connected burial benefits. Although 38 U.S.C. 2302(b) and 2303(b)(2) limit payment of nonservice-connected burial benefits when payment has been made by a government or employer, 38 U.S.C. 2307, which establishes the right to a service-connected burial allowance, contains no such bar.

Proposed paragraph (b), dealing with contributions or payments of burial expenses by other public or private organizations, is derived from current § 3.1604(a) and (c). The proposed rule would clarify that the limitations contained in current § 3.1604(a) and (c) only apply to nonservice-connected burial benefits. Although 38 U.S.C. 2302(b) bars payment of nonservice-connected burial benefits if they would revert to or relieve an obligation of a public or private organization, 38 U.S.C. 2307, which establishes the right to a service-connected burial allowance, contains no such bar. Because proposed paragraph (b) relates to both burial allowance and plot or interment allowance, we propose to use the generic term ''burial benefits'' rather than ''burial allowance.''

Proposed paragraph (c) is derived from current § 3.1604(b)(1) and (2). The proposed paragraph differs from the current rule in several respects. Current § 3.1604(b)(1) states:

> Where a veteran dies while in employment covered by the United States Employees' Compensation Act, as amended, or other similar laws specifically providing for payment of the expenses of funeral, transportation, and interment out of Federal funds, burial allowance will not be authorized by the Department of Veterans Affairs.

By specifically listing the ''United States Employees' Compensation Act,'' the rule may be misread to apply only when the deceased veteran was a Federal employee. However, 38 U.S.C. 2302(b) requires VA to withhold burial benefits ''in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.'' We propose to use language in § 5.651(c)(1) that is similar to the statutory language, in order to ensure that the law is given its full intended effect.

In addition, current § 3.1604(b)(1) states that where a law specifically provides for ''payment of the expenses of funeral, transportation, and interment out of Federal funds, *burial allowance* will not be authorized.'' (Emphasis added). The proposed rule would instead make this bar applicable only to the nonservice-connected burial allowance. Although 38 U.S.C. 2302(b) bars payment of the nonservice-connected burial allowance, as described above, 38 U.S.C. 2307, which establishes the right to a service-connected burial allowance, contains no such bar. Likewise, 38 U.S.C. 2303, which establishes the right to a burial allowance for veterans who died while hospitalized by VA and the right to a plot or interment allowance, contains no such bar.

Proposed paragraph § 5.651(c)(3) would require an election between service-department and VA burial benefits in cases where both benefits are payable because the veteran died while hospitalized at the expense of the United States government. The rule, which avoids duplicate payments, represents current VA policy previously unstated in regulation. Furthermore, we believe that the election is required by 10 U.S.C. 1482(b), which states, ''If reimbursement by the United States is also authorized under another provision of law or regulation, the individual may elect under which provision to be reimbursed.''

Section 5.652 Effect of Forfeiture on Payment of Burial Benefits

Proposed § 5.652 restates, in plain language, current § 3.1609, which governs the effect of a deceased veteran's or a claimant's forfeiture of the right to receive VA benefits on the right of a claimant to receive burial benefits. The only substantive change is that we propose to remove the requirement, contained in § 3.1609(b) that the pardon must have been granted during the veteran's lifetime. There is no such requirement in the relevant statutes, 38 U.S.C. 6103 and 6104. Moreover, the proposed VA regulation concerning the effect of a Presidential pardon on forfeiture, § 5.682, ''Presidential pardon for offenses causing forfeiture,'' *see* 71 FR 31056, 31065–68 (May 31, 2006), contains no such requirement, and it would be inconsistent to impose it on claimants seeking burial benefits.

Current § 3.1609 lists the authority citations as 38 U.S.C. 5904(c)(2) and 5905(a). However, this citation is outdated. We propose to update the authority citations to the correct authorities, which are 38 U.S.C. 6103, 6104, and 6105, which govern forfeiture for fraud, treason, and subversive activities.

Section 5.653 Eligibility Based on Status Before 1958

We propose to repeat the language of current § 3.954 at § 5.653, without change.

Additional Regulations From Part 3 That Will Not Be Included in Part 5

For the reasons discussed below, we propose not to include in part 5 the rules contained in the following regulations and paragraphs from current part 3.

38 CFR 3.1610(a)

We propose not to include current § 3.1610(a), relating to burial of a deceased veteran in a national cemetery. Current § 3.1610 reads, in relevant part:

> The statutory burial allowance and permissible transportation charges as provided in §§ 3.1600 through 3.1611 are also payable under the following conditions:
>
> (a) Where burial of a deceased veteran is in a national cemetery, provided that burial in a national cemetery is desired by the person or persons entitled to the custody of the remains for interment and permission for burial has been received from the officers having jurisdiction over burials in national cemeteries * * *.

Section 3.1610(a) merely states that burial in a national cemetery does not bar payment of burial benefits. There is no conflicting statement in the proposed regulations that authorize the various monetary burial benefits, which unambiguously state the requirements for payment of burial benefits. Moreover, proposed §§ 5.638(c) and 5.639(a) specifically authorize payment of transportation expenses based on burial in a national cemetery. Hence, there is no reason to include current § 3.1610(a) in part 5.

38 CFR 3.1611

Current § 3.1611 provides: ''When requested by the person entitled to the custody of the body of a deceased beneficiary of the Department of Veterans Affairs, official representation at the funeral will be granted provided an employee is available for the purpose and this representation will entail no expense to the Department of Veterans Affairs.'' It has been and continues to be VA's policy to accommodate a request for VA representation at the burial of a veteran, subject to issues of availability and cost. However, we do not believe it is necessary to stipulate this policy in the U.S. Code of Federal Regulations.

38 CFR 3.1612

We propose not to include current § 3.1612, which implements a repealed statutory provision. The rule provides a monetary allowance in lieu of a Government-furnished headstone or marker. The authority for the rule is a former version of 38 U.S.C. 2306(d) that was deleted from the United States Code in 1990. Pub. L. 101–508, title VIII, § 8041(a), 104 Stat. 1388, 1388–349 (1990). At the time that section 2306 was amended, VA believed that it was necessary to retain § 3.1612 because we still had authority to offer the benefit to veterans who died before November 1990. *See* § 3.1612(h) (recognizing that the ''monetary allowance [payable under § 3.1612] is not payable if death occurred on or after November 1, 1990.'') We believe that the passage of time has rendered the rule obsolete. In the unlikely event that a claimant seeks the monetary allowance authorized under former section 2306(d) based on a veteran who died before November 1990, we would be authorized to pay the benefit pursuant to former section 2306(d), even in the absence of a VA regulation authorizing payment of the benefit.

Endnote Regarding Amendatory Language

We intend to ultimately remove part 3 entirely, but we are not including amendatory language to accomplish that at this time. VA will provide public notice before removing part 3.

Paperwork Reduction Act of 1995

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although this rule includes provisions providing for payments to some small entities, including funeral homes and local governments, the provisions merely restate existing provisions of statute and regulation and thus will have no additional impact on such small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; 64.115, Veterans Information and Assistance; and 64.127, Monthly Allowance for Children of Vietnam Veterans Born with Spina Bifida.

List of Subjects in 38 CFR Part 5

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: December 26, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 5 as proposed to be added at 69 FR 4832, January 30, 2004, by adding subpart J to read as follows:

PART 5—COMPENSATION, PENSION, BURIAL, AND RELATED BENEFITS

Subpart J—Burial Benefits

Sec.

5.630 Types of VA burial benefits.
5.631 Deceased veterans for whom VA may provide burial benefits.
5.632 Persons who may receive burial benefits.
5.633 Claims.
5.634 Reimbursable burial expenses—General.
5.635 Reimbursable transportation expenses for veterans who are buried in a national cemetery or who died while hospitalized by VA.
5.636 Burial of veterans whose remains are unclaimed.
5.637 [Reserved]
5.638 Burial allowance based on service-connected death.
5.639 Transportation expenses for burial in a national cemetery.
5.640–5.642 [Reserved]
5.643 Burial allowance based on nonservice-connected death.
5.644 Burial allowance for veteran who died while hospitalized by VA.
5.645 Plot or interment allowance.
5.646–5.648 [Reserved]
5.649 Priority of payments when there is more than one claimant.
5.650 Escheat (payment of burial benefits to an estate with no heirs).
5.651 Effect of contributions by government, public, or private organizations.
5.652 Effect of forfeiture on payment of burial benefits.
5.653 Eligibility based on status before 1958.
5.654–5.659 [Reserved]

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

§ 5.630 Types of VA burial benefits.

(a) *Burial benefits.* VA provides the following types of burial benefits, which are discussed in §§ 5.631 through 5.659 of this part:

(1) Burial allowance based on service-connected death;

(2) Burial allowance based on nonservice-connected death;

(3) Burial allowance for veteran who died while hospitalized by VA;

(4) Burial plot or interment allowance; and

(5) Allowance for transportation of remains.

(b) *Cross references.* Other benefits and services related to the memorialization of deceased veterans include the following:

(1) Burial in a national cemetery (§§ 38.600 through 38.629 of this chapter);

(2) Presidential memorial certificates (38 U.S.C. 112);

(3) Burial flags (§ 1.10 of this chapter); and

(4) Headstones or markers (§§ 38.630 through 38.633 of this chapter).

§ 5.631 Deceased veterans for whom VA may provide burial benefits.

(a) *Definition of ''veteran'' for purposes of burial benefits.* For the purposes of this subpart, a ''veteran'' is a person who:

(1) Had active military service and who was discharged or released;

(2) Died during authorized travel to or from a period of active duty under § 5.29(a)(1); or

(3) Is entitled to a burial benefit based on a specific provision of law.

(b) *Character of discharge.* The period of active military service upon which the claim is based must have ended by discharge or release under conditions other than dishonorable.

(c) *Line of duty determinations.* Where a claim for burial benefits would be or has been disallowed because the service department holds that the veteran's disability was not incurred in line of duty and VA receives evidence that permits a different finding, the decision of the service department is not binding on VA and VA will determine line of duty. The burden of proof rests upon the claimant.

(Authority: 38 U.S.C. 101(2)), 2302, 2307)

§ 5.632 Persons who may receive burial benefits.

VA may grant a claim for burial benefits filed by any individual for a burial expense reimbursable by VA under this subpart, up to the amount of the applicable statutory burial allowance. Except in claims filed by a State or an agency or political subdivision of a State under § 5.636(c) or § 5.645(a), such individuals generally include (but are not limited to) the following:

(a) The funeral director, if the entire bill is unpaid or if there is any unpaid balance.

(b) Any individual who used personal funds to pay or help pay burial expenses.

(c) The executor or administrator of the estate of any person, including the estate of the deceased veteran, who prepaid the burial expenses. If no executor or administrator has been appointed, VA may pay burial benefits based on a claim filed by a person acting for such estate who will make distribution of the burial benefits to the person or persons entitled to such distribution under the laws of the veteran's last State of residence.

(d) In a claim for a plot or interment allowance under § 5.645(b), the person or entity from whom the burial plot was purchased, if the entire bill was unpaid or if there was any unpaid balance.

(Authority: 38 U.S.C. 2302, 2307)

§ 5.633 Claims.

(a) *When claims must be filed*—(1) *General.* Except as provided in paragraph (a)(2) of this section, claims for the nonservice-connected burial allowance must be received by VA no later than 2 years after the burial of the veteran. No other time limitations apply to claims for burial benefits under this subpart.

(2) *Correction of character of discharge.* If the nonservice-connected burial allowance was not payable at the death of the veteran because of the nature of the veteran's discharge from service, VA may pay the allowance if a deceased veteran's discharge is corrected by competent authority to reflect a discharge under conditions other than dishonorable. Claims for the nonservice-connected burial allowance must be filed no later than 2 years after the date that the discharge was corrected.

(b) *Supporting evidence*—(1) *General.* Evidence required to substantiate a claim for burial benefits must be submitted no later than 1 year after the date VA requests such evidence. In order to pay burial benefits, VA must receive all of the following:

(i) A proper claim form.

(ii) Proof of death in accordance with § 5.500.

(iii) A statement of account, preferably on letterhead or in the form of an invoice from the funeral director or cemetery owner, showing: the name of the deceased veteran; the plot or interment expenses incurred; the dates and expenses incurred for services rendered; the expenses incurred for any merchandise provided; any credits or payments received; and the unpaid balance.

(iv) A receipt from the funeral director and/or cemetery owner showing by whom payment was made and showing receipt directly by the funeral director and/or cemetery owner, or such person's representative. Receipts for transportation charges must also show the dates of the services rendered, the name of the deceased veteran who was transported, and the name of the person who paid the transportation charges.

(v) If the claim is filed by an heir for burial expenses paid using funds from the veteran's estate or some other deceased person's estate, the claim must include waivers or evidence of unconditional consent from all other heirs, and the identity and right of all other persons to share in that estate must have been established.

(2) *Nonservice-connected deaths.* In the case of a veteran whose death was not service connected, VA may establish qualifying service based upon evidence of service that VA relied upon to award compensation or pension during the veteran's lifetime, unless there is some other evidence which creates doubt as to the correctness of that evidence of service.

(Authority: 38 U.S.C. 2304, 5107(a))

§ 5.634 Reimbursable burial expenses—General.

(a) *General.* The term ''burial expenses'' as used in this subpart means expenses of the funeral, transportation, and plot or interment of a deceased veteran. Generally, VA will reimburse burial expenses up to the applicable statutory limit.

(b) *Non-reimbursable burial expenses.* VA will not allow reimbursement for burial expenses incurred for any of the following:

(1) *Flags.* A privately purchased burial flag, except when VA was unable to provide a burial flag.

(2) *Duplicate items.* Any item or service, such as a casket or clothing, previously provided or paid for by the U.S. Government.

(3) *Accessory items.* An item or service that is not necessary or related to the funeral, burial, or transportation of the deceased veteran.

(Authority: 38 U.S.C. 2301, 2302, 2303(a), 2307)

§ 5.635 Reimbursable transportation expenses for veterans who are buried in a national cemetery or who died while hospitalized by VA.

The transportation expenses of those persons who come within the provisions of §§ 5.639 and 5.644 may include the following:

(a) *Shipment by common carrier*—(1) *Pickup of remains.* Charge for pickup of remains from place hospitalized or place of death but not to exceed the usual and customary charge made to the general public for the same service.

(2) *Procuring permit for shipment.*

(3) *Shipping case.* When a box purchased for burial purposes is also used as the shipping case, the amount payable may not exceed the usual and customary charge for a shipping case. In any such instance any excess amount would be an acceptable item to be reimbursed as a burial expense.

(4) *Sealing.* Expense of sealing outside case (tin or galvanized iron), if a vault (steel or concrete) is used as a shipping case and also for burial, an allowance of $30 may be made thereon in lieu of a separate shipping case.

(5) *Hearse to common carrier.* Expense of hearse to point where remains are to be placed on common carrier for shipment.

(6) *Transportation and Federal taxes.* Expense of transportation by common carrier including amounts paid as Federal taxes.

(7) *Removal by hearse.* Expense of one removal by hearse direct from common carrier plus one later removal by hearse to place of burial.

(b) *Transported by hearse.* (1) Charge for pickup of remains from place hospitalized or place of death and charge for one later removal by hearse to place of burial. These charges will not exceed those made to the general public for the same services.

(2) Payment of hearse charges for transporting the remains over long distances are limited to prevailing common carrier rates when common carrier service is available and can be easily and effectively utilized.

(Authority: 38 U.S.C. 2303, 2308)

§ 5.636 Burial of veterans whose remains are unclaimed.

(a) *Unclaimed veteran's remains; burial allowance based on nonservice-connected death.* When a veteran's remains are unclaimed, burial allowance is payable either:

(1) Under § 5.643, ''Burial allowance based on nonservice-connected death,'' if the requirements of that section are met; or

(2) If a deceased veteran either served during wartime (as defined in § 5.20, ''Dates of periods of war'') or was discharged or released from active military service for a disability incurred or aggravated in line of duty and the following conditions are met:

(i) The remains of the deceased veteran are being held by a State (or a political subdivision of a State); and

(ii) An appropriate official of the State or (a political subdivision of the State) where the remains are being held certifies in writing that:

(A) There is no next of kin or other person claiming the remains of the deceased veteran; and

(B) There are not available sufficient resources in the veteran's estate to cover the burial expenses.

(b) *Unclaimed veteran's remains: burial allowance based on service-connected death.* Benefits are payable under § 5.638, ''Burial allowance based on service-connected death'' if the requirements of that section are met.

(c) *Plot or interment allowance.* Benefits are payable under § 5.645, ''Plot or interment allowance'' if the requirements of that section are met.

(d) *Burial.* When a veteran's remains are unclaimed, the Director of the VA regional office in the area in which the veteran died will immediately complete arrangements for burial in a national cemetery or, at his or her option, in a cemetery or cemetery section meeting the requirements of § 5.645(a), provided that the total amount payable for burial expenses does not exceed the total amount payable had burial been in a national cemetery.

(Authority: 38 U.S.C. 2302(a))

§ 5.637 [Reserved]

§ 5.638 Burial allowance based on service-connected death.

(a) *General.* VA will pay a burial allowance of up to the amount specified in 38 U.S.C. 2307 to reimburse claimants for the burial expenses paid for a veteran who died as a result of a service-connected disability or disabilities (as described in § 5.504). Subject to paragraph (c) of this section, payment of the service-connected burial allowance is in lieu of other allowances authorized by this subpart and is subject to the applicable further regulations in this subpart.

(b) *Exceptions.* VA will not pay the service-connected burial allowance if:

(1) Compensation for the cause of death is payable only under 38 U.S.C. 1151 (which provides compensation where a disability or death was caused by VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy program); or

(2) The basis of the claim for burial allowance is entitlement to dependency and indemnity compensation under 38 U.S.C. 1318 (which provides for benefits for survivors of certain veterans rated totally disabled at the time of death as if the cause of death were service-connected).

(c) *Additional allowances available based on service-connected death.* In addition to the service-connected burial allowance authorized by this section:

(1) VA may provide reimbursement for transportation expenses related to burial in a national cemetery under § 5.639; and

(2) VA may pay the plot or interment allowance for burial in State veterans cemetery under § 5.645(a).

(Authority: 38 U.S.C. 2307, 2308)

§ 5.639 Transportation expenses for burial in a national cemetery.

(a) *Eligibility.* VA will pay for the expense incurred, subject to paragraph (b) of this section, to transport a veteran's remains for burial in a national cemetery if the veteran:

(1) Died as the result of a service-connected disability; or

(2) Was in receipt of service-connected disability compensation at the time of death; or

(3) Would have been in receipt of service-connected disability compensation at the time of death, but for the receipt of military retired pay or nonservice-connected disability pension.

(b) *Amount payable.* The amount payable under this section may not exceed the cost of transporting the remains to the national cemetery closest to the veteran's last place of residence in which burial space is available, and is subject to the limitations set forth in § 5.635 (relating to reimbursable transportation expenses) and § 5.651 (relating to the effect of contributions by government, public, or private organizations).

(c) *Eligibility exceptions.* VA will not provide payment under this section if:

(1) Compensation for the cause of death is payable only under 38 U.S.C. 1151 (which provides compensation where a disability or death was caused by VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy program); or

(2) The basis of the claim for transportation expenses is entitlement to dependency and indemnity compensation under 38 U.S.C. 1318 (which provides for benefits for survivors of certain veterans rated totally disabled at the time of death as if the cause of death were service-connected).

(Authority: 38 U.S.C. 2308)

§§ 5.640–5.642 [Reserved]

§ 5.643 Burial allowance based on nonservice-connected death.

(a) *General.* VA will pay a burial allowance of up to the amount specified in 38 U.S.C. 2302 to reimburse claimants for the burial expenses paid for a veteran described in paragraph (b) of this section. Payment of the nonservice-connected burial allowance is subject to the applicable further regulations in this subpart.

(b) *Eligibility.* VA will pay a nonservice-connected burial allowance under this section based upon a veteran whose death was not service connected (as described in § 5.504), *i.e.*, was not the result of a service-connected disability or disabilities, when the deceased veteran at the time of death:

(1) Was receiving VA pension or disability compensation; or

(2) Would have been in receipt of disability compensation but for the receipt of military retirement pay; or

(3) Had any of the following claims pending:

(i) An original claim for pension or disability compensation, and the evidence in the claims file on the date of death and any evidence received under paragraph (d) of this section was sufficient to award pension or disability compensation effective before the date of death; or

(ii) A claim to reopen a pension or disability compensation claim, based on new and material evidence, and the evidence in the claims file on the date of the veteran's death and any evidence received under paragraph (d) of this section was sufficient to reopen the claim and award pension or disability compensation effective before the date of death.

(c) *Evidence in the claims file on the date of the veteran's death* means evidence in VA's possession on or before the date of the deceased veteran's death, even if such evidence was not physically located in the VA claims file on or before the date of death.

(d) *Requesting additional evidence.* If the veteran had either an original claim or a claim to reopen pending at the time of death but the information in the claims file was not sufficient to award pension or disability compensation effective before the date of death, and VA determines that additional evidence is needed to confirm that the deceased would have been entitled prior to death, VA will request such evidence. If such evidence is not received by VA within 1 year from the date of the request, the claim will be denied.

(e) *Additional allowances available based on nonservice-connected death.* In addition to the nonservice-connected burial allowance authorized by this section:

(1) VA may provide reimbursement for transportation expenses related to burial in a national cemetery under § 5.639, but only if entitlement under paragraphs (b)(1) through (3) of this section is based on a claim for or award of compensation, rather than a claim for or award of pension; and

(2) VA may pay the plot or interment allowance for burial in State veterans cemetery under § 5.645(a).

(Authority: 38 U.S.C. 2302, 2304)

§ 5.644 Burial allowance for veteran who died while hospitalized by VA.

(a) *General.* VA will pay a burial allowance of up to the amount specified in 38 U.S.C. 2303(a) to reimburse claimants for the burial expenses paid for a veteran described in paragraph (b) of this section. VA may pay an additional amount for transportation of the remains to the place of burial, as described in paragraph (d) of this section. VA may pay an additional amount for the burial plot, as described in § 5.645. Payment under this section is subject to the applicable further regulations in this subpart.

(b) *Eligibility for burial allowance.* A burial allowance is payable under this section based upon a veteran whose death was not service connected and who died while hospitalized by VA. For the purposes of this allowance, a veteran was hospitalized by VA if the veteran:

(1) Was admitted to a VA facility (as described in 38 U.S.C. 1701(3)) for hospital, nursing home, or domiciliary care under the authority of 38 U.S.C. 1710 or 1711(a); or

(2) Was transferred or admitted to a non-VA facility (as described in 38 U.S.C. 1701(4)) for hospital care under the authority of 38 U.S.C. 1703; or

(3) Was transferred or admitted to a nursing home for nursing home care at the expense of the United States, under the authority of 38 U.S.C. 1720; or

(4) Was transferred or admitted to a State nursing home for nursing home care for which payment is authorized under the authority of 38 U.S.C. 1741; or

(5) Died while traveling under proper prior authorization and at VA expense to or from a specified place for the purpose of examination, treatment, or care; or

(6) Was hospitalized by VA pursuant to paragraph (b)(1) through (4) of this section but was not at the VA facility at the time of death and was:

(i) On authorized absence that did not exceed 96 hours at the time of death; or

(ii) On unauthorized absence for a period not in excess of 24 hours at the time of death; or

(iii) Absent from the hospital for a period not in excess of 24 hours of combined authorized and unauthorized absence at the time of death.

(c) *Hospitalization in the Philippines.* Hospitalization in the Philippines under 38 U.S.C. 1731, 1732, and 1733 does not meet the requirements of this section.

(d) *Reimbursement of transportation expenses.* In addition to the burial allowance authorized by this section, VA will reimburse for the expense of transportation of the remains of an

individual described in paragraph (b) of this section to the place of burial where death occurs:

(1) Within a State or the Canal Zone (as defined by 38 U.S.C. 101(20)) and the remains are buried in a State or the Canal Zone; or

(2) Within a State or the Canal Zone (as defined by 38 U.S.C. 101(20)) but burial is to be outside of a State or the Canal Zone, except that reimbursement for the expense of transportation of the remains will be authorized only from the place of death to the port of embarkation, or to the border limits of the United States where burial is in Canada or Mexico.

(Authority: 38 U.S.C. 2303, 2307)

§ 5.645 Plot or interment allowance.

(a) *Plot or interment allowance for burial in a State veterans cemetery.* VA will pay the plot or interment allowance in the maximum amount specified in 38 U.S.C. 2303(b)(1) to a State, or an agency or political subdivision of a State that provided a burial plot for a veteran (without regard to whether any other burial benefits were provided based on that veteran) when:

(1) The veteran was eligible for burial in a national cemetery under 38 U.S.C. 2402 but was not buried in a national cemetery or other cemetery under the jurisdiction of the United States; and

(2) The veteran was buried in a cemetery, or a section of a cemetery, which is owned by the State, or an agency or political subdivision of the State, which is claiming the plot or interment allowance; and

(3) The State or agency or political subdivision of the State did not charge for the expense of the plot or interment; and

(4) The cemetery, or section of a cemetery, is used solely for the interment of any or all of the following:

(i) Persons eligible for burial in a national cemetery;

(ii) In claims based on veterans dying on or after November 1, 2000, deceased members of a reserve component of the Armed Forces not otherwise eligible for interment in a national cemetery;

(iii) In claims based on veterans dying on or after November 1, 2000, deceased former members of a reserve component of the Armed Forces not otherwise eligible for interment in a national cemetery who were discharged or released from service under conditions other than dishonorable.

(b) *Plot or interment allowance payable based on burial in other than a State veterans cemetery.* VA will provide a plot or interment allowance of up to the amount specified in 38 U.S.C. 2303(b)(2) to reimburse claimants who incurred plot or interment expenses relating to the purchase of a burial plot for a deceased veteran who was eligible for burial in a national cemetery under 38 U.S.C. 2402 but was not buried in a national cemetery or other cemetery under the jurisdiction of the United States and who:

(1) Is eligible for a burial allowance under §§ 5.643 (nonservice-connected burial allowance) or 5.644 (death while hospitalized by VA); or

(2) Was discharged from active military service for a disability incurred in or aggravated in line of duty (in such cases, VA will accept the official service record as proof of eligibility for the plot or interment allowance and VA will disregard any previous VA determination made in connection with a claim for monetary benefits that the disability was not incurred or aggravated in line of duty); or

(3) Who, at the time of discharge from active military service, had a disability, shown by official service records, which in medical judgment would have justified a discharge for disability.

(c) *Definitions.* For the purposes of this subpart, ''plot'' or ''burial plot'' means the final disposal site of the remains, whether it is a grave, mausoleum vault, columbarium niche, or other similar place. ''Plot or interment expenses'' are those expenses associated with the final disposition of the remains and are not confined to the acts done within the burial grounds but may include the removal of remains for burial or interment.

(Authority: 38 U.S.C. 501(a), 2303(b))

§§ 5.646–5.648 [Reserved]

§ 5.649 Priority of payments when there is more than one claimant.

(a) *Persons who performed services or provided items.* VA will reimburse, before all other claimants, claimants who performed services or provided items (including a burial plot) and who have not been fully paid for the services or items.

(b) *Two or more persons used personal funds.* If two or more claimants have paid personal funds toward the burial expenses, the applicable burial benefit(s) will be divided among such claimants in accordance with the proportionate share paid by each.

(c) *Personal funds* vs. *veteran's estate.* VA will reimburse claimants who used their own personal funds before VA will reimburse the estate of the deceased veteran for amounts that the estate paid toward allowable burial expenses.

(d) *Plot or interment allowance.* (1) An unpaid bill for a burial plot will take precedence in payment of the plot or interment allowance over claims for other plot or interment expenses. Any remaining balance of the plot or interment allowance may then be applied to the other plot or interment expenses.

(2) Notwithstanding paragraphs (a) through (c) of this section, VA will provide the entire plot or interment allowance under § 5.645(a) to an eligible State, or an agency or political subdivision of a State, rather than any other claimant for plot or interment allowance.

(e) *Exceptions for waivers.* Notwithstanding paragraphs (a) through (d) of this section, any claimant may waive his or her right to receive burial benefits in favor of another claimant. However, even when waiver is executed in favor of a particular claimant, VA cannot pay that claimant more than the claimant personally paid toward allowable burial expenses.

(Authority: 38 U.S.C. 2302, 2307)

§ 5.650 Escheat (payment of burial benefits to an estate with no heirs).

VA will not pay burial benefits when the payment would escheat (*i.e.*, would be turned over to the State because the estate of the person to whom such benefits would be paid has no heirs).

(Authority: 38 U.S.C. 501)

§ 5.651 Effect of contributions by government, public, or private organizations.

(a) *Contributions by government or employer.* When a claimant files a claim for nonservice-connected burial benefits and contributions or payments to burial expenses have been made by the United States, a State, any agency or political subdivision of the United States or of a State, or the employer of the deceased veteran, VA will reimburse the claimant up to the lesser of:

(1) The allowable statutory amount; or

(2) The amount of the total burial expenses minus the amount of burial expenses paid by any or all of the organizations described in this paragraph.

(b) *Contributions or payments by any other public or private organization.* Contributions or payments by any other public or private organization, such as a lodge, union, fraternal or beneficial organization, society, burial association, or insurance company, will bar payment of nonservice-connected burial benefits if such benefits would revert to the funds of such organization or would discharge such organization's obligation without payment. This section does not apply to contributions or payments on the burial expenses that are made for humanitarian reasons if the organization

making the contribution or payment is under no legal obligation to do so.

(c) *Burial expenses paid by other agencies of the United States.* (1) *Burial allowance when Federal law or regulation also provides for payment.* VA cannot pay the nonservice-connected burial allowance when any Federal law or regulation also specifically provides for the payment of the deceased veteran's burial expenses. However, VA will pay the nonservice-connected burial allowance when a Federal law or regulation allows the payment of burial expenses using funds due, or accrued to the credit of, the deceased (such as Social Security benefits), but the law or regulation does not specifically require such payment. In such cases, VA will pay the difference between the total burial expenses and the amount paid thereon under such provision, not to exceed the amount specified in 38 U.S.C. 2302.

(2) *Payment by service department.* Burial allowance is not payable for deaths in active military service, or for other deaths where the burial expenses are paid by the service department.

(3) *When veteran dies while hospitalized.* When a veteran dies while hospitalized at the expense of the United States government (including death in a VA facility), the veteran's service department may be authorized to pay burial benefits under 10 U.S.C. 1481 or to reimburse an individual who paid such expenses under 10 U.S.C. 1482. The deceased veteran may also qualify for VA burial benefits. Only one of these benefits is payable. VA will attempt to locate the nearest relative or person entitled to reimbursement and will ask that individual to elect between these benefits.

(d) *Effect of payments made to a designated beneficiary of contract or insurance policy.* A contract or insurance policy that provides for payment on the death of a veteran to a designated beneficiary, who is not the person that actually provided the burial and funeral services, will not bar payment of burial benefits to the beneficiary. Payment is not barred even if the organization that issued the contract or policy has the option of making payment directly to the provider of the burial and funeral services.

(Authority: 38 U.S.C. 2302(b), 2307)

§ 5.652 Effect of forfeiture on payment of burial benefits.

(a) *Forfeiture for fraud.* VA will pay burial benefits, if otherwise in order, based on a deceased veteran whose rights to receive VA benefits were forfeited due to fraud under § 5.676. However, VA will not pay burial benefits to a claimant who participated in fraudulent activity that resulted in forfeiture under § 5.676.

(b) *Forfeiture for treasonable acts or for subversive activity.* Burial benefits are not payable based on a period of service commencing prior to the date of commission of the offense where either the veteran or claimant has forfeited the right to gratuitous benefits § 5.677 or § 5.678 by reason of a treasonable act or subversive activities, unless the offense was pardoned by the President of the United States.

(Authority: 38 U.S.C. 6103, 6104, 6105)

§ 5.653 Eligibility based on status before 1958.

When any person who had a status under any law in effect on December 1, 1957, which afforded entitlement to burial benefits dies, the burial allowance will be paid, if otherwise in order, even though such status does not meet the service requirements of 38 U.S.C. chapter 23.

(Authority: 38 U.S.C. 2305)

§§ 5.654–5.659 [Reserved]

[FR Doc. E8–7234 Filed 4–7–08; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0036–200801(b); FRL–8552–1]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the 1-Hour Ozone Maintenance Plan for the Raleigh/Durham and Greensboro/Winston-Salem/High Point Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a February 4, 2008, revision to the State Implementation Plan submitted by the North Carolina Department of Environment and Natural Resources on behalf of the State of North Carolina for the purpose of revising the subarea motor vehicle emissions budgets (MVEBs) for volatile organic compounds and nitrogen oxides for the Greensboro/Winston-Salem/High Point area. The Greensboro/Winston-Salem/High Point 1-hour ozone maintenance area (also referred to as the ''Triad Area'') is comprised of Davidson, Forsyth, and Guilford Counties and a portion of Davie County. The revisions to the subarea MVEBs are approvable because of an available safety margin for volatile organic compounds and nitrogen oxides for this Area.

In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before May 8, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0036, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

(a) *E-mail: ward.nacosta@epa.gov* or *wood.amanetta@epa.gov.*

(b) *Fax:* (404) 562–9019.

2. *Mail:* EPA–R04–OAR–2008–0036, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

3. Nacosta C. Ward, Regulatory Development Section, or Amanetta Wood, Air Quality Modeling Transportation Section, of the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Ms. Nacosta C. Ward of the Regulatory Development Section, or Ms. Amanetta Wood, Air Quality Modeling Transportation Section, Air Planning

Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone numbers are (404) 562–9140 and (404) 562–9025 respectively. Ms. Nacosta Ward can be reached via electronic mail at *ward.nacosta@epa.gov* Ms. Amanetta Wood can be reached via electronic mail at *wood.amanetta@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: March 27, 2008.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E8–7187 Filed 4–7–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2008–MD–0209; FRL–8552–6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; State of Maryland; Control of Large Municipal Waste Combustor (LMWC) Emissions From Existing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Maryland Department of the Environment (MDE) large municipal waste combustor plan (the plan) revision for implementing Clean Air Act (the Act) emission guideline (EG) amendments promulgated by EPA on May 10, 2006. The plan revision establishes revised emission limits, monitoring, and recordkeeping requirements for existing LMWC units with a unit capacity greater than 250 tons per day (TPD). An existing LMWC unit is one for which construction commenced on or before September 20, 1994. In the Final Rules section of this **Federal Register**, EPA is approving the State's 111(d)/129 plan revision submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed description for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 8, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–MD–0209 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: http://wilkie.walter@epa.gov.*

C. *Mail:* EPA—R03–OAR–2008–MD–0209, Walter Wilkie, Chief, Air Quality Analysis Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2008–MD–0209. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section for this **Federal Register** publication.

Dated: March 31, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E8–7345 Filed 4–7–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32, 43, 52, and 53

[FAR Case 2005–032; Docket 2008–0002; Sequence 4]

RIN: 9000–AI47

Federal Acquisition Regulation; FAR Case 2005–032, Contractor's Request for Progress Payments

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement recommendations to improve the regulations at FAR 32.001, 32.5, and 52.232–16 related to requests for progress payments and the Standard Form (SF) 1443, Contractor's Request for Progress Payments form used to request those progress payments.

DATES: Interested parties should submit written comments to the FAR Secretariat on or before June 9, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR Case 2005–032 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by inputting ''FAR Case 2005–032'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with FAR Case 2005–032. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''FAR Case 2005–032'' on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4035, ATTN: Diedra Wingate, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2005–032 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT Ms. Meredith Murphy, Procurement Analyst, at (202) 208–6925 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAR case 2005–032.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed changes to FAR 32.001, 32.501–3, 32.503–6, 52.232–16 and the SF 1443, Contractor's Request for Progress Payments are to (1) address revisions to the paid cost rule, and (2) simplify the form and related regulations, and instructions to improve clarity. These proposed changes originated as a part of a review of the SF 1443 and related regulations by the Department of Defense (DoD). As a part of this review, the DoD requested input from both Department contracting professionals and the general public (see **Federal Register** 69 FR 67899, dated November 22, 2004). The recommendations resulting from that effort were considered in developing the proposed rule language reported herein.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Discussion

The Councils are revising the following FAR provisions:

1. FAR 32.001 is revised to add a definition for the term ''Liquidate.'' This proposed change is made to ensure that all parties understand what is meant by this term which is used frequently throughout FAR Part 32.

2. FAR 32.501–3(a)(1) is revised to ensure that the term ''contract price'' is used consistently in 32.501–3 and the SF 1443. This change is proposed to clarify that ''contract price'' includes the total amount to be paid for complete performance of the contract, to include the not-to-exceed amounts on unpriced modifications. Related changes are proposed to the instructions for Item 5 of the SF 1443.

3. FAR 32.503–1 is deleted, in its entirety. The language requiring the contractor to use the SF 1443 to request progress payments is moved to 52.232–16(g)(3). This change is made to move the requirement to use the form into the contract clause. New language is added allowing electronic submission of the SF 1443.

4. FAR 32.503–6(f) and (g), and 52.232–16(a)(9) and (c)(5) are revised to clarify the computation of the loss ratio.

5. FAR 52.232–16(g)(2) is added to require that contractors use current estimates to complete when preparing the SF 1443. Related changes are proposed for the SF 1443 Line 12b and related instructions.

6. Various other changes to the SF 1443 and related instructions are also proposed:

(a) Line 4 ''Contract Number'' is changed to require that the contractor include the Delivery or Task Order number, if applicable, so that the paying office can associate the SF 1443 with the correct order.

(b) Lines 9—11 are revised to reflect changes made to the ''paid cost rule'' in an earlier Final Rule.

(c) Line 14 is revised to make the language on the form consist with that of 52.232–16. A related change is also made to Line 20.

(d) Line 23 is revised to clarify that the amount on this line is the dollars that have been liquidated as well as the dollars to be liquidated.

(e) Minor editorial changes are proposed for various portions of the SF 1443 and related instructions.

C. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this proposed rule will not change the rules for buying or add a new information collection requirement. It will not have a significant economic impact to simplify the SF 1443 and related regulations and instructions. Further, most contracts awarded to small entities use the simplified acquisition procedures or are awarded on a competitive, fixed-price basis; neither of these requires the completion of the SF 1443. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 32, 43, 52, and 53 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2005–032), in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 32, 43, 52, and 53

Government procurement.

Dated: April 1, 2008.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 32, 43, 52, and 53 as set forth below:

1. The authority citation for 48 CFR parts 32, 43, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 32—CONTRACT FINANCING

2. Amend Section 32.001 by adding, in alphabetical order, the definition ''Liquidate'' to read as follows:

32.001 Definitions.

* * * * *

Liquidate means to decrease a payment for an accepted supply item or service under a contract for the purpose of recouping financing payments previously paid to the contractor.

* * * * *

3. Amend section 32.501–3 by revising paragraphs (a)(1) and (a)(3) to read as follows:

32.501–3 Contract price.

(a) * * *

(1) Under firm-fixed price contracts, the contract price is the current amount fixed by the contract plus the not-to-exceed amount for any unpriced modifications.

* * * * *

(3) Under a fixed-price incentive contract, the contract price is the target price plus the not-to-exceed amount of unpriced modifications. However, if the contractor's properly incurred costs exceed the target price, the contracting officer may provisionally increase the price up to the ceiling or maximum price.

* * * * *

32.503–1 [Reserved]

4. Remove and reserve section 32.503–1.

5. Amend section 32.503–6 by revising paragraphs (a)(3), (f), and (g)(1)(i) to read as follows:

32.503–6 Suspension or reduction of payments.

(a) * * *

(3) In all cases, the contracting officer shall—

(i) Act fairly and reasonably.

(ii) Base decisions on substantial evidence.

(iii) Document the contract file. Findings made under paragraph (c) of the Progress Payments clause shall be in writing.

* * * * *

(f) *Fair value of undelivered work.* Progress payments must be commensurate with the fair value of work accomplished in accordance with contract requirements. The contracting officer must adjust progress payments when necessary to ensure that the fair value of undelivered work equals or exceeds the amount of unliquidated progress payments. On loss contracts contracts, the application of a loss ratio as provided at paragraph (g) of this section constitutes this adjustment.

(g) * * *

(1) * * *

(i) Revise the current contract price used in progress payment computations (the current ceiling price under fixed-price incentive contracts) to include the not-to-exceed amount for any pending change orders and unpriced orders.

* * * * *

PART 43—CONTRACT MODIFICATIONS

43.102 [Amended]

6. Amend section 43.102 by removing from paragraph (b) the word ''maximum'' and adding the word ''ceiling'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Amend section 52.232–16 by revising the date of the clause; by adding paragraph (a)(9); and by revising paragraphs (c)(5) and (g) to read as follows:

52.232–16 Progress Payments.

* * * * *

PROGRESS PAYMENTS (DATE)

(a) * * *

(9) The costs applicable to items delivered, invoiced, and accepted shall not include costs in excess of the contract price of the items.

* * * * *

(c) * * *

(5) The fair value of the undelivered work is less than the amount of unliquidated progress payments for that work.

* * * * *

(g) *Reports, forms, and access to records.* (1) The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information (including estimates to complete) reasonably requested by the Contracting Officer for the administration of this clause. Also, the Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's books, records, and accounts.

(2) The Contractor shall furnish estimates to complete that have been developed or updated within six months of the date of the progress payment request. The estimates to complete shall represent the Contractor's best estimate of total costs to complete all remaining contract work required under the contract. The estimates shall include sufficient detail to permit Government verification.

(3) Each Contractor request for progress payment shall:

(i) Be submitted on Standard Form 1443, Contractor's Request for Progress Payment, or the electronic equivalent as required by agency regulations, in accordance with the form instructions and the contract terms; and

(ii) Include any additional supporting documentation requested by the Contracting Officer.

* * * * *

PART 53—FORMS

53.232 [Amended]

8. Amend section 53.232 by removing ''(*10/82*)'' and adding ''(*Date*)'' in its place; and by removing '', as specified in 32.503.1''.

9. Revise section 53.301–1443 to read as follows:

53.301–1443 Contractor's Request for Progress Payments and Related Instructions.

BILLING CODE 6820–EP–S

CONTRACTOR'S REQUEST FOR PROGRESS PAYMENT

Form Approved
OMB Number 9000-0010

IMPORTANT: This form is to be completed in accordance with instructions on the reverse.

SECTION I - IDENTIFICATION INFORMATION

1 TO NAME AND ADDRESS OF CONTRACTING OFFICE ADMINISTERING THE CONTRACT *(Include ZIP Code)*

PAYING OFFICE

2 FROM NAME AND ADDRESS OF CONTRACTOR *(Include ZIP Code)*

3 SMALL BUSINESS ☐YES ☐NO

4. CONTRACT NUMBER
A BASIC CONTRACT NUMBER | B TASK OR DELIVERY ORDER NUMBER

5 CONTRACT PRICE
$

6. RATES		7. DATE OF INITIAL AWARD		8A PROGRESS PAYMENT REQUEST NUMBER	8B DATE OF THIS REQUEST
A. PROGRAM PAYMENTS	B. LIQUIDATION	A. YEAR	B MONTH		
0 %	0 %				

SECTION II - STATEMENT OF COSTS UNDER THIS CONTRACT THROUGH _____ *(Date)*

9. RESERVED			
10. RESERVED			
11. COSTS ELIGIBLE FOR PROGRESS PAYMENTS UNDER THE PROGRESS PAYMENTS CLAUSE			
12a. TOTAL CONTRACT COST(S) INCURRED TO DATE			
b. ESTIMATED COST TO COMPLETE		c. TOTAL ESTIMATED COST OF PERFORMANCE	
13. ITEM 11 MULTIPLIED BY ITEM 6a			
14a. FINANCING PAYMENTS PAID TO SUBCONTRACTORS			
b. LIQUIDATED FINANCING PAYMENTS TO SUBCONTRACTORS			
c. UNLIQUIDATED FINANCING PAYMENTS PAID TO SUBCONTRACTORS *(Item 14a less 14b)*			
d. SUBCONTRACT FINANCING PAYMENTS APPROVED FOR CURRENT PAYMENT			
e. ELIGIBLE SUBCONTRACTOR FINANCING PAYMENTS *(Item 14c plus 14d)*			
15. TOTAL DOLLAR AMOUNT *(Item 13 plus 14e)*			
16. ITEM 5 MULTIPLIED BY ITEM 6b			
17. LESSER OF ITEM 15 OR ITEM 16			
18. TOTAL AMOUNT OF PREVIOUS PROGRESS PAYMENTS REQUESTED			
19. MAXIMUM BALANCE ELIGIBLE FOR PROGRESS PAYMENTS *(Item 17 less 18)*			

SECTON III - COMPUTATION OF LIMITS FOR OUTSTANDING PROGRESS PAYMENTS

20 COMPUTATION OF PROGRESS PAYMENT CLAUSE LIMITATION		
a COSTS INCLUDED IN ITEM 11, APPLICABLE TO ITEMS DELIVERED, INVOICED, AND ACCEPTED TO THE DATE IN HEADING OF SECTION II		
b COSTS ELIGIBLE FOR PROGRESS PAYMENTS, APPLICABLE TO UNDELIVERED ITEMS AND TO DELIVERED ITEMS NOT INVOICED AND ACCEPTED *(Item 11 less 20a)*		
c. ITEM 20b MULTIPLIED BY ITEM 6a		
d. ELIGIBLE SUBCONTRACTOR FINANCING PAYMENTS *(Same as Item 14e)*		
e. LIMITATION *(Item 20c plus 20d)*		
21. COMPUTATION OF PROGRESS PAYMENT CLAUSE LIMITATION		
a. CONTRACT PRICE OF ITEMS DELIVERED, ACCEPTED AND INVOICED AS OF THE DATE SHOWN IN THE HEADING OF SECTION II		
b CONTRACT PRICE OF ITEMS NOT DELIVERED, ACCEPTED AND INVOICED *(Item 5 less 21a)*		
c. ITEM 21b MULTIPLIED BY ITEM 6b		
d UNLIQUIDATED ADVANCE PAYMENTS PLUS ACCURED INTEREST		
e. LIMITATION *(Item 21c less 21d)*		
22. MAXIMUM UNLIQUIDATED PROGRESS PAYMENTS *(Lesser of Item 20e or 21e)*		
23 TOTAL AMOUNT LIQUIDATED AND TO BE LIQUIDATED		
24. UNLIQUIDATED PROGRESS PAYMENTS *(Item 18 less 23)*		
25. MAXIMUM PERMISSIBLE PROGRESS PAYMENTS *(Item 22 less 24)*		
26. AMOUNT OF CURRENT INVOICE FOR PROGRESS PAYMENT *(Lesser of item 25 or 19)*		
27. AMOUNT APPROVED BY CONTRACTING OFFICER		

CERTIFICATION

DATE _____

I Certify that:

(a) The above statement (with attachments) has been prepared from the books and records of the above-named contractor in accordance with the contract and the instructions hereon, and to the best of my knowledge and belief, that it is correct;
(b) All the costs of contract performance (except as herewith reported in writing) have been paid to the extent shown herein, or where not shown as paid have been paid or will be paid currently, by the contractor, when due, in the ordinary course of business;
(c) The work reflected above has been performed;
(d) The quantities and amounts involved are consistent with the requirements of the contract;
(e) There are no encumbrances (except as reported in writing herewith, or on previous progress payment request number _____) against the property acquired or produced for, and allocated or properly chargeable to the contract which would affect or impair the Government's title;
(f) There has been no materially adverse change in the financial condition of the contractor since the contractor's (insert 'as of' date of financial information) _____ submission of its last financial information dated (insert date of prior submission/certification) _____ to the Government in connection with the contract,
(g) To the extent of any contract provision limiting progress payments pending first article approval, such provision has been complied with, and
(h) After the making of the requested progress payment the unliquidated progress payments will not exceed the maximum unliquidated progress payments permitted by the contract.

NAME AND TITLE OF CONTRACT REPRESENTATIVE SIGNING THIS FORM	SIGNATURE
NAME AND TITLE OF CONTRACTING OFFICER	SIGNATURE

NSN 7540-01-140-5523

STANDARD FORM 1443 ()
Prescibed by GSA (FPR-1-16 808) FAR (48 CFR 53 232)

INSTRUCTIONS

GENERAL - All dollar amounts must be shown in whole dollars, rounded using a consistent methodology (e.g., always round up, always round down, always round to the nearest dollar). All line item numbers not included in the instructions below are self-explanatory.

SECTION I - IDENTIFICATION INFORMATION. Complete items 1 through 8c in accordance with the following instructions.

Item 1. TO - Enter the name and address of the cognizant Contract Administration Office (the office administering the contract).
PAYING OFFICE - Enter the designation of the paying office, as indicated on the contract.

Item 2. FROM - CONTRACTOR'S NAME AND ADDRESS/ZIP CODE - Enter the name and mailing address of the contractor. If applicable, the division of the company performing the contract should be entered immediately following the contractor's name.

Item 3. Enter an "X" in the appropriate block to indicate whether or not the contractor is a small business concern.

Item 4. Enter the contract number, including the task order number for multiple ordering agreements. Progress payment requests under individual orders shall be submitted as if the order constituted a separate contract, unless otherwise specified in this contract (FAR 52.232-16(m)).

Item 5. Enter the total contract price in accordance with the following (See FAR 32.501-3):
(1) Under firm-fixed-price contracts, the contract price is the current amount fixed by the contract plus the not-to-exceed amount for any unpriced modifications.
(2) If the contract is redeterminable or subject to economic price adjustment, the contract price is the initial price until modified.
(3) Under a fixed-price incentive contract, the contract price is the target price plus the not-to-exceed amount for any unpriced modifications. However, if the contractor's properly incurred costs exceed the target price, the contracting officer may provisionally increase the price up to the ceiling or maximum price.
(4) Under a letter contract, the contract price is the maximum amount obligated by the contract as modified.
(5) Under an unpriced order issued against a basic ordering agreement, the contract price is the maximum amount obligated by the order, as modified.
(6) Any portion of the contract specifically providing for reimbursement of costs only shall be excluded from the contract price.

Item 6A. PROGRESS PAYMENT RATES - Enter the 2-digit progress payment percentage rate shown in paragraph (a) (1) of the progress payment clause.

Item 6B. LIQUIDATED RATE - Enter the current progress payment liquidation rate prescribed in the contract (FAR 52.232-16(b)) using three digits - Example: show 80% as 800 - show 72.3% as 723. Decimals between tenths must be rounded up to the next highest tenth (not necessarily the nearest tenth), since rounding down would produce a rate below the minimum rate calculated (FAR 32.503-10(b) (4)).

Item 7. DATE OF INITIAL AWARD - Enter the four digit calendar year. Use two digits to indicate the month. Example: Show January 2005 as 2005/01.

Item 8A. PROGRESS PAYMENT REQUEST NUMBER - Enter the number assigned to this request. All requests under a single contract must be numbered consecutively, beginning with 1. Each subsequent request under the same contract must continue in sequence, using the same series of numbers without omission.

Item 8B. Enter the date of the request.

SECTION II - STATEMENT OF COSTS UNDER THIS CONTRACT.
Date. In the space provided in the heading enter the date through which costs have been accumulated from inception for inclusion in this request. This date is applicable to item entries in Sections II and III.

Cost Basis. In accordance with FAR 52.232-16 (a) (1), the basis for progress payments is the contractor's total costs incurred under this contract, whether or not actually paid, plus financing payments to subcontractors (computed in accordance with FAR 52.232-16(j)), less the sum of all previous progress payments made by the Government under this contract.

Item 11. Costs eligible for progress payments under the progress payments clause. Compute the eligible costs in accordance with the requirements at FAR 52.232-16(a)(1) through (4). First articles: Before first article approval, the acquisition of materials or components for, or the commencement of production of, the balance of the contract quantity is at the sole risk of the contractor. Before the first article approval, the costs thereof shall not be allowable for purposes of progress payments. (See FAR 52.209-3(g) and FAR 52.209-4(h)).

Item 12a. Enter the total contract costs incurred to date; if the actual amount is not known, enter the best possible estimate. If an estimate is used, enter (E) after the amount.
Item 12b. Enter the estimated cost to complete the contract. The contractor shall furnish estimates to complete that have been developed or updated within six months of the date of the progress payment request. The estimates to complete shall represent the contractor's best estimate of total costs to complete all remaining contract work required under the contract. The estimates shall include sufficient detail to permit Government verification.
Items 14a through 14e. Include only financing payments (progress payments, performance-based payments, and commercial item financing) on subcontracts which are in accordance with the requirements of FAR 52.232-16(j).

Item 14a. Enter only financing payments actually paid.

Item 14b. Enter total financing payments recouped from subcontractors.

Item 14d. Include the amount of unpaid subcontract progress payment billings which have been approved by the contractor for the current payment in the ordinary course of business.

SECTION III - ADVANCE PAYMENTS/ACCEPTED ITEMS. This Section must be completed only if the contractor has received advance payments against this contract, of if the items have been delivered, invoiced and accepted as of the date indicated in the heading of Section II above. EXCEPTION: Item 27 must be completed for all progress payment requests where the line 12c amount exceeds the amount on Line 5.

Item 20a. Of the costs reported in Item 11, compute and enter only costs which are properly allocable to items delivered, invoiced and accepted to the applicable date. In order of preference, these costs are to be computed on the basis of one of the following: (a) The actual unit cost of items delivered, giving proper consideration to the deferment of the starting load costs or (b) projected unit costs (based on experienced costs plus the estimated cost to complete the contract), where the contractor maintains cost data which will clearly establish the reliability of such estimates.

Item 23. Enter total progress payments liquidated (monies recouped from the contractor on prior billings) and those to be liquidated from billings submitted but not yet paid (monies to be recouped from the contractor on submitted but unpaid billings).

Item 26. If no financial information has been provided previously in connection with this contract, insert "N/A" in the submission date block and the financial information date block. Otherwise, insert respectively, the date of the last submission and the "as of" date of the financial information submitted last.

STANDARD FORM 1443 () BACK

[FR Doc. E8–7293 Filed 4–7–08; 8:45 am]
BILLING CODE 6820–EP–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 070718369–7771–01]

RIN 0648–AV34

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

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

ACTION: Proposed rule; request for comments.

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

DATES: Written comments must be received on or before May 23, 2008.

ADDRESSES: You may submit comments on the proposed rule by any of the following methods:

- Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727–824–5308; Attention: Peter Hood.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 30A, which include a supplemental environmental impact statement (SEIS), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review (RIR) may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813–348–1630; fax 813–348–1711; e-mail *gulfcouncil@gulfcouncil.org*; or may be downloaded from the Council's website at *http://www.gulfcouncil.org/*.

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

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to specify their strategy to rebuild overfished stocks to a sustainable level within a certain time frame, and to minimize bycatch and bycatch mortality to the extent practicable. The reauthorized Magnuson-Stevens Act as amended through January 12, 2007, requires the councils to establish annual catch limits (ACLs) for each stock or stock complex and accountability measures (AMs) to ensure these ACLs are not exceeded. This proposed rule addresses these requirements for greater amberjack and gray triggerfish.

Status of Stocks

Greater amberjack have been under a rebuilding plan since 2003. However, a new stock assessment completed in 2006 concluded that the stock is not recovering as projected. It remains overfished and NMFS recently determined that overfishing is recurring. This proposed rule is necessary to end overfishing and adjust allowable catch levels and other management measures to bring the greater amberjack rebuilding plan back on course for stock recovery within the original 10-year time frame.

Gray triggerfish were determined to be undergoing overfishing based on the results of a 2006 stock assessment. If approved, status determination criteria proposed in Amendment 30A would result in the gray triggerfish stock being considered overfished, requiring a rebuilding plan to be implemented. Therefore, this proposed rule is necessary to set quotas and management measures to end overfishing and rebuild the gray triggerfish stock.

Reductions Required to End Overfishing and Rebuild Stocks

Actions in the proposed rule are designed to reduce the total landings (commercial and recreational combined) of greater amberjack by 32 percent and gray triggerfish by at least 60 percent to end overfishing and allow the stocks to recover to a biomass level capable of producing maximum sustainable yield (B_{MSY}) within each species' respective rebuilding schedule. These landings reductions would reduce fishing mortality (F) to levels associated with harvesting OY under equilibrium conditions (F_{OY}). This equates to a 50–percent reduction in F for greater amberjack and 54–percent reduction for gray triggerfish. In addition, Amendment 30A proposes management thresholds and targets for gray triggerfish that comply with the Sustainable Fisheries Act.

Allocations

Amendment 30A would establish an allocation of total allowable catch (TAC) for the greater amberjack fishery of 73 percent for the recreational sector and 27 percent for the commercial sector. This allocation is estimated to increase the recreational share of TAC by 5 percent compared to the recreational/commercial ratio for 2000–2004. For the gray triggerfish fishery, Amendment

30A proposes reducing commercial and recreational landings proportionally; therefore, there would be no change relative to the 2000–2004 ratio of landings (i.e., 79 percent recreational and 21 percent commercial).

Measures Applicable to the Greater Amberjack Fishery

Rebuilding Plan

Amendment 30A would continue the 3-year stepped rebuilding plan approach implemented through Secretarial Amendment 2 to the FMP. During the rebuilding plan, directed TAC for each 3-year interval would be set equal to the TAC for the first year of the interval as defined by the constant F_{OY} projection from the latest available stock assessment, e.g. the 2006 assessment for 2008–2010. For 2008–2010, TAC would be set at 1.9 million lb (863,636 kg). TAC would remain at that level until revised via appropriate rulemaking. This rebuilding plan approach has been projected to have a better than 50–percent chance of rebuilding the stock to B_{MSY} by the end of 2012.

Commercial Measures

Based on the TAC proposed in Amendment 30A, the proposed rule would establish a commercial quota for greater amberjack of 503,000 lb (228,157 kg) for each fishing year from 2008 through 2010. The commercial quota would remain at that level until revised via appropriate rulemaking. This quota would function as an ACL and represents a 43–percent reduction in annual landings. The quota reduction, in combination with the proposed recreational restrictions and proposed accountability measures, would end overfishing and rebuild biomass to B_{MSY} by the end of 2010. The establishment of the quota should also reduce discards in proportion to the overall reduction in annual landings.

Recreational Measures

This proposed rule would establish a greater amberjack recreational quota of 1,368,000 lb (620,514 kg). This quota would function as an ACL. To help constrain the recreational harvest to this quota, the proposed rule would increase the minimum size limit to 30 inches (76 cm) fork length (FL) and prohibit captain and crew of a vessel operating as a charter vessel or headboat from retaining a bag limit of greater amberjack. In combination, these restrictions are expected to reduce recreational landings by 26 percent. Increasing the minimum size limit to 30 inches (76 cm) FL from the current 28–inch (71–cm) limit would allow more than 50 percent of all females to mature before being landed. Although the proposed increase in the minimum size limit would increase the proportion of discards, the proposed recreational measures are expected to reduce the magnitude of dead discards because of the large reduction in recreational landings. In conjunction with the proposed commercial restrictions and the proposed accountability measures, these measures would end overfishing, and rebuild biomass to B_{MSY} by the end of 2010.

Accountability Measures (AMs) for the Greater Amberjack Fishery

This proposed rule would establish AMs for the greater amberjack fishery. These AMs are intended to ensure landings do not exceed the TAC allowed by the rebuilding plan.

If commercial or recreational landings, as estimated by the Southeast Fisheries Science Center, reach or are projected to reach the respective commercial quota or recreational quota, the proposed rule would authorize the Assistant Administrator Fisheries, NOAA, (AA) to file a notification with the Office of the Federal Register to close that sector of the fishery for the remainder of that fishing year. In addition, if the in-season closure does not prevent commercial landings from exceeding the quota, this proposed rule would authorize the AA to file a notification with the Office of the Federal Register reducing the commercial quota in the following year by the amount the quota was exceeded in the previous year. If the in-season closure does not prevent recreational landings from exceeding the quota, this proposed rule would authorize the AA to file a notification with the Office of the Federal Register to reduce the length of the following recreational fishing season for the time necessary to recover the overage from the previous year. Further, during that following year, if necessary, the AA may file additional notification with the Office of the Federal Register to readjust the reduced fishing season to ensure recreational harvest achieves but does not exceed the intended harvest level.

Measures Applicable to the Gray Triggerfish Fishery

Rebuilding Plan

The Magnuson-Stevens Act specifies that no rebuilding plan shall exceed 10 years unless either biological or environmental conditions dictate otherwise. Because rebuilding projections indicate the gray triggerfish stock can rebuild in less than 10 years, a rebuilding plan not exceeding 10 years is required. In determining the rebuilding timeframe, however, the Magnuson-Stevens Act also specifies that the status and biology of the overfished population, as well as the needs of fishing communities and interactions of the population with the marine ecosystem be taken into account. After considering these factors and requirements, the Council proposed a rebuilding plan based on fishing at a rate that optimizes yield while allowing for the stock to rebuild within 6 years. Under the proposed rebuilding plan, TAC would be 500,000 lb (226,796 kg) for 2008, 580,000 lb (263,084 kg) for 2009, and 660,000 lb (299,371 kg) for 2010. After 2010, TAC would remain at the 2010 level until revised via appropriate rulemaking.

Commercial Measures

Consistent with the proposed rebuilding plan, this proposed rule would establish a commercial gray triggerfish quota of 80,000 lb (36,287 kg) for 2008, 93,000 lb (42,184 kg) for 2009, and 106,000 lb (48,081 kg) for 2010. After 2010, the commercial quota would remain at the 2010 level until revised via appropriate rulemaking. The quotas are expected to reduce commercial landings by 61 percent, as necessary, to end overfishing. To help constrain commercial gray triggerfish harvests to the applicable quota, the proposed rule would increase the commercial minimum size limit from 12 inches TL (30 cm TL) to 14 inches FL (36 cm FL). Increasing the commercial minimum size limit would slow the rate of harvest and may help minimize any seasonal closure that may be implemented under the proposed accountability measures. Gray triggerfish have a very low release mortality rate; therefore, most undersized fish that are released survive to contribute to rebuilding the stock. Increasing the commercial size limit would also increase the spawning potential for this species.

Recreational Measures

Consistent with the proposed rebuilding program, the proposed rule would establish ACLs for the recreational fishery, which would trigger implementation of the AMs. The ACL would be 394,000 lb (178,715 kg) for 2008, 426,000 lb (193,230 kg) for 2009, and 457,000 lb (207,291 kg) for 2010 and subsequent fishing years, unless revised via subsequent rulemaking. The proposed rule would also increase the recreational gray triggerfish minimum size limit from 12 inches total length (TL) (30 cm TL) to 14 inches FL (36 cm FL). Increasing the

minimum size limit is estimated to reduce recreational landings by 60 percent. Unlike nearly all other reef fish species managed by the Council, gray triggerfish are hardy fish that have a very low release mortality rate. Only approximately 1.5 percent of gray triggerfish die after release. Also, because the number of eggs produced by a gray triggerfish increases exponentially by size and age, the minimum size limit increase would increase spawning potential.

Accountability Measures (AMs) for Gray Triggerfish

This proposed rule would establish AMs for the gray triggerfish fishery. These AMs are intended to ensure landings do not exceed the TAC allowed by the rebuilding plan.

For the commercial fishery, this proposed rule would establish quotas and ACLs. The quota levels are less than the ACLs. The ACLs would trigger implementation of the AMs. If commercial landings, as estimated by the NMFS Southeast Fisheries Science Center, Science and Research Director (SRD), reach or are projected to reach the applicable quota, the AA would file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year. In addition, if despite such closure, commercial landings exceed the applicable ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the quota for that following year by the amount the prior-year ACL was exceeded. The applicable ACLs are 105,000 lb (47,627 kg) for 2008, 122,000 lb (55,338 kg) for 2009, and 138,000 lb (62,596 kg) for 2010 and subsequent fishing years.

For the recreational fishery, this proposed rule would establish ACLs that would trigger implementation of the AMs. If recreational landings, as estimated by the SRD, exceed the applicable ACL, the AA will file a notification with the Office of the Federal Register reducing the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational target TAC for that following fishing year. The recreational ACLs are based on the yields under a constant fishing mortality (i.e., F_{OY}) rebuilding strategy that would allow the stock to rebuild within approximately 6 years. During year 1 of the rebuilding plan, the ACL is equal to the 2008 projected yield from the constant fishing mortality rebuilding plan. The year 2 ACL (2009) would be the average of the projected yields for the first 2 years of the rebuilding plan (2008–2009). The 2010 (and thereafter) ACL would be a 3-year average of the projected yields for 2008–2010. The applicable ACLs are 394,000 lb (178,715 kg) for 2008, 426,000 lb (193,230 kg) for 2009, and 457,000 lb (207,291 kg) for 2010 and subsequent fishing years. The recreational target TACs are 356,000 lb (161,479 kg) for 2009 and 405,000 lb (183,705 kg) for 2010 and subsequent fishing years. Recreational landings would be evaluated relative to the applicable ACL as follows. For 2008, only 2008 recreational landings will be compared to the ACL; in 2009, the average of 2008 and 2009 recreational landings will be compared to the ACL; and in 2010 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL. By averaging across multiple years, year-to-year fluctuations in landings resulting from recruitment variability, regulatory restrictions on other species, and prevailing economic conditions would be diminished.

Reference Points and Thresholds for Gray Triggerfish

The Magnuson-Stevens Act requires that each fishery management plan define reference points in the form of MSY and OY, and specify objective and measurable criteria for identifying when a fishery is overfished (minimum stock size threshold, MSST) or undergoing overfishing (maximum fishing mortality threshold, MFMT). Together, these four parameters are intended to provide fishery managers with the tools to measure fishery status and performance. MSY, MFMT, and OY were previously specified for gray triggerfish. Amendment 30A would establish and define MSST as $(1–M)*B_{MSY}$, where M is the natural mortality rate and $B_{30\%SPR}$ is the proxy for B_{MSY}. To be consistent with NMFS' precautionary approach guidance, Amendment 30A would also revise the current specification of OY, 20 percent spawning potential ratio (SPR), to be the yield corresponding to an F defined as $F_{OY} = 0.75*F_{MSY}$, where $F_{30\%SPR}$ is the proxy for F_{MSY}.

Availability of Amendment 30A

Additional background and rationale for the measures discussed above are contained in Amendment 30A. The availability of Amendment 30A was announced in the **Federal Register** on March 31, 2008 (73 FR 16829). Written comments on Amendment 30A must be received by May 30, 2008. All comments received on Amendment 30A or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 30A, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS prepared a SEIS for this amendment. A notice of availability for the draft SEIS was published on December 14, 2007 (72 FR 71138).

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of, and 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 copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

The proposed rule would increase the recreational and commercial minimum size limit for gray triggerfish to 14 inches (35.6 cm) FL, increase the recreational minimum size limit for greater amberjack to 30 inches (76 cm) FL, reduce the greater amberjack bag limit for captain and crew of for-hire vessels to zero, establish quotas for greater amberjack and gray triggerfish, and establish accountability measures for greater amberjack and gray triggerfish. The Magnuson-Stevens Act provides the statutory basis for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified. This proposed rule would not alter existing reporting, record-keeping, or other compliance requirements.

This proposed rule would be expected to directly affect vessels that operate in the Gulf of Mexico commercial reef fish fishery and for-hire reef fish fisheries, and reef fish dealers or processors. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters, for-hire operations, fish processors, and fish dealers. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its

affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all affiliated operations worldwide. For for-hire operations, the other qualifiers apply and the annual receipts threshold is $6.5 million (NAICS code 713990, recreational industries). For seafood processor and dealers, rather than a receipts threshold, the SBA uses an employee threshold of 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated operations for a seafood processor and 100 or fewer persons for a seafood dealer.

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

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

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

The average charterboat is estimated to generate approximately $77,000 (2005 dollars) in annual revenues, while the comparable figure for an average headboat is approximately $404,000 (2005 dollars). Based on the average annual gross revenue information for these vessels, NMFS determines, for the purpose of this analysis, that all for-hire entities potentially affected by this proposed rule are small business entities.

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

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

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

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

While for-hire vessels do not derive revenues from greater amberjack or gray triggerfish sales, most vessels target these species at some time during the year. Assuming angler demand declines in response to the proposed restrictions for these species, revenue and profit reductions can be projected. As a result of the proposed greater amberjack actions, the for-hire sector is projected to experience a loss in net income of approximately $763,000 per year, while the proposed gray triggerfish actions are projected to result in a loss of approximately $514,000 per year. If these losses were distributed equally across all vessels in the fishery, the

resulting loss per vessel would be less than $800 per vessel. Some vessels are likely more dependent on these species than other vessels due to where they fish and client preferences and, thus, may be more severely impacted by the proposed measures.

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

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

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

Five alternatives, including the status quo, were considered for the action to establish management measures for the greater amberjack commercial fishery. The first alternative to the proposed suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to satisfy the rebuilding plan. This alternative would not, therefore, achieve the Council's objective. The second alternative to the proposed action would impose a trip limit. Although this alternative would achieve the same reduction as the proposed action, it would tend to impose a more restrictive limit on fishing operations and eventually result in more adverse economic impacts. The third alternative to the proposed action would impose an even lower trip limit and has been estimated to result in more adverse economic impacts than the proposed action. The last alternative to the proposed action would add a 3-month seasonal closure to the existing 3-month closure. Although this would achieve about the same harvest reduction as the proposed action, fishermen have already indicated they lost a good part of their market to the existing 3-month closure so adding 3 more months to the existing closed months would only exacerbate the situations fishermen would face.

Three alternatives, including sub-options and the status quo, were considered for the action to define stock benchmarks for gray triggerfish. The first alternative to the proposed action, the status quo, would maintain current definitions of OY and MFMT, but would not set an overfished threshold (MSST), which is a required component of a fishery management plan. This alternative would not, therefore, achieve the Council's objective. The second alternative to the proposed benchmarks would establish a less conservative MSST, i.e., $0.5*B_{MSY}$ versus the proposed $0.73*B_{MSY}$, increasing the risk of not maintaining a healthy resource relative to the proposed action.

Three alternatives, including the status quo, were considered for the action to establish a gray triggerfish rebuilding plan. The first alternative to the proposed rebuilding plan, the status quo, would not establish a gray triggerfish rebuilding plan and would not achieve the Council's objective. The second alternative to the proposed rebuilding plan would establish a stepped plan rather the constant F rebuilding plan under the proposed action. The stepped rebuilding plan would increase TAC in 3-year stepped intervals with TAC in each interval set equal to the first year of the corresponding TAC in the constant F_{OY}. This alternative is projected to result in greater adverse short-term economic impacts than the proposed action.

Five alternatives were considered for the action to specify accountability measures for gray triggerfish. The proposed action would impose accountability measures for the recreational sector, with the period of evaluation increasing from a 1-year to a 2-year to a 3-year running average of landings as the rebuilding plan progresses. For the commercial sector, the proposed action would evaluate landings on an annual basis. The first alternative to the proposed gray triggerfish accountability measures, the status quo, would not specify accountability measures and would not satisfy the requirements of the Magnuson-Stevens Act. The second and third alternatives to the proposed accountability measures would require corrective action only if the combined harvests of both the commercial and recreational sectors exceed the overall target levels, differing by the type of corrective action, allowing either a range of management harvest reduction tools, such as trip, bag, season, or minimum size adjustments, or limiting the corrective action to season length (closure). These alternatives were not chosen as the proposed action because they would not preserve the balance of sector allocations and would not achieve the enhanced stock recovery benefits of the proposed action. The fourth alternative to the proposed accountability measures would impose the same sector-specific and period-of-assessment requirements of the proposed action, but would result in a delay of corrective action because such action could only be imposed via temporary rulemaking as authorized by section 305(c) of the Magnuson-Stevens Act as opposed to the more timely

publication of a notification in the **Federal Register** under the proposed action. This delay would be expected to increase the severity of corrective action, thereby imposing greater adverse economic impacts relative to the proposed action.

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

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

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

List of Subjects in 50 CFR Part 622

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

Dated: April 2, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

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

§ 622.2 Definitions and acronyms.

* * * * *

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

* * * * *

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

* * * * *

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

§ 622.37 Size limits.

* * * * *

(d) * * *

(3) * * *

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

* * * * *

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

* * * * *

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

§ 622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

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

* * * * *

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

§ 622.42 Quotas.

* * * * *

(a) * * *

(1) * * *

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

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

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

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

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

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

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

* * * * *

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

§ 622.43 Closures.

(a) * * *

(1) * * *

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

* * * * *

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

§ 622.49 Accountability measures.

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

commercial landings exceed the quota, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the quota for that following year by the amount of the overage in the prior fishing year.

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

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

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

(b) [Reserved]

[FR Doc. E8–7379 Filed 4–7–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 73, No. 68
Tuesday, April 8, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Child Nutrition Labeling Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection. The proposed collection is a revision of a currently approved collection.

The purpose of the Child Nutrition Labeling Program is to aid schools and institutions participating in Child Nutrition Programs in determining the contribution a commercial product makes toward the food-based meal pattern requirements of these programs.

DATES: Comments on this notice must be received by *June 9, 2008* to be assured of consideration.

ADDRESSES: 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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Tim Vazquez, Acting Team Leader, Technical Assistance Section, Nutrition Promotion and Training Branch, Child Nutrition Division, Room 632, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Tim Vazquez at (703) 305–2609.

SUPPLEMENTARY INFORMATION:

Title: Child Nutrition Labeling Program.

OMB Number: 0584–0320.

Expiration Date: July 31, 2008.

Type of Request: Revision of currently approved collection.

Abstract: The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program to aid schools and institutions participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP) in determining the contribution a commercial product makes toward the food-based meal pattern requirements of these programs. (See Appendix C to 7 CFR Parts 210, 220, 225 and 226 for more information on this program). There is no Federal requirement that commercial products must have a CN label statement.

To participate in the Child Nutrition Labeling Program, a manufacturer submits product labels and formulations to the Food and Nutrition Service (FNS) that are in conformance with the Food Safety and Inspection Service (FSIS) label approval program for meat and poultry, or United States Department of Commerce (USDC) label approval program for seafood products. FNS reviews a manufacturer's product formulation to determine the contribution a serving of the product makes toward the food-based meal pattern requirements. The application form submitted to FNS is the same application form that companies submit to FSIS or USDC to receive label approval. A CN label application is also reviewed by FNS for accuracy. Participation in the CN Labeling Program is voluntary: only manufacturers who wish to place CN labels on their products must comply with CN Labeling Program requirements.

Affected Public: Businesses.

Type of Respondents: Manufacturers of food produced for school food service. The annual reporting burden:

Estimated Number of Respondents: 269;

Estimated Number of Responses per Respondent: 7.8;

Estimated Total Annual Responses: 2,098;

Estimated Time per Response: 0.75;

Estimated Total Annual Burden: 1,574.

ESTIMATE OF BURDEN

Summary of burden for this collection	Number of respondents	Est. annual responses per respondent	Est. total annual responses	Est. hours per response	Est. total annual burden for this ICR
.....	269	7.8	2098.2	0.75	1573.65

Dated: March 25, 2008.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E8–7239 Filed 4–7–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted income eligibility guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Nutrition Program for Women, Infants and Children Program (WIC). These income eligibility guidelines are to be used in conjunction with the WIC Regulations.

DATES: July 1, 2008.

FOR FURTHER INFORMATION CONTACT: Debra Whitford, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305–2746.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice is exempt from review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act of 1995

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29114, June 24, 1983, and 49 FR 22676, May 31, 1984).

Description

Section 17(d)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786 (d)(2)(A)) requires the Secretary of Agriculture to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be income eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)). Under section 9(b), the income limit for reduced-price school meals is 185 percent of the Federal poverty guidelines, as adjusted.

Section 9(b) also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 2008 was published by the Department of Health and Human Services (HHS) at 73 FR 3971, January 23, 2008. The guidelines published by HHS are referred to as the poverty guidelines.

Section 246.7(d)(1) of the WIC regulations (Title 7, Code of Federal Regulations) specifies that State agencies may prescribe income guidelines either equaling the income guidelines established under section 9 of the Richard B. Russell National School Lunch Act for reduced-price school meals or identical to State or local guidelines for free or reduced-price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines for reduced-price school meals, or which are less than 100 percent of the Federal poverty guidelines. Consistent with the method used to compute income eligibility guidelines for reduced-price meals under the National School Lunch Program, the poverty guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time the Department is publishing the maximum and minimum WIC income eligibility guidelines by household size for the period July 1, 2008, through June 30, 2009. Consistent with section 17(f)(17) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(17)), a State agency may implement the revised WIC income eligibility guidelines concurrently with the implementation of income eligibility guidelines under the Medicaid program established under Title XIX of the Social Security Act (42 U.S.C. 1396, et seq.). State agencies may coordinate implementation with the revised Medicaid guidelines, but in no case may implementation take place later than July 1, 2008.

State agencies that do not coordinate implementation with the revised Medicaid guidelines must implement the WIC income eligibility guidelines on July 1, 2008. The first table of this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia and all Territories, including Guam. Because the poverty guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

Authority: 42 U.S.C. 1786.

Dated: April 1, 2008.

Roberto Salazar,

Administrator.

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 2008 to June 30, 2009]

Household size	Federal poverty guidelines—100%					Reduced price meals—185%				
	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly
48 Contiguous States, DC, Guam and Territories										
1	$10,400	$867	$434	$400	$200	$19,240	$1,604	$802	$740	$370
2	14,000	1,167	584	539	270	25,900	2,159	1,080	997	499
3	17,600	1,467	734	677	339	32,560	2,714	1,357	1,253	627
4	21,200	1,767	884	816	408	39,220	3,269	1,635	1,509	755
5	24,800	2,067	1,034	954	477	45,880	3,824	1,912	1,765	883

INCOME ELIGIBILITY GUIDELINES—Continued

[Effective from July 1, 2008 to June 30, 2009]

Household size	Federal poverty guidelines—100%					Reduced price meals—185%				
	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly
6	28,400	2,367	1,184	1,093	547	52,540	4,379	2,190	2,021	1,011
7	32,000	2,667	1,334	1,231	616	59,200	4,934	2,467	2,277	1,139
8	35,600	2,967	1,484	1,370	685	65,860	5,489	2,745	2,534	1,267
Each Add'l Member Add	+3,600	+300	+150	+139	+70	+6,660	+555	+278	+257	+129
Alaska										
1	13,000	1,084	542	500	250	24,050	2,005	1,003	925	463
2	17,500	1,459	730	674	337	32,375	2,698	1,349	1,246	623
3	22,000	1,834	917	847	424	40,700	3,392	1,696	1,566	783
4	26,500	2,209	1,105	1,020	510	49,025	4,086	2,043	1,886	943
5	31,000	2,584	1,292	1,193	597	57,350	4,780	2,390	2,206	1,103
6	35,500	2,959	1,480	1,366	683	65,675	5,473	2,737	2,526	1,263
7	40,000	3,334	1,667	1,539	770	74,000	6,167	3,084	2,847	1,424
8	44,500	3,709	1,855	1,712	856	82,325	6,861	3,431	3,167	1,584
Each Add'l Member Add	+4,500	+375	+188	+174	+87	+8,325	+694	+347	+321	+161
Hawaii										
1	11,960	997	499	460	230	22,126	1,844	922	851	426
2	16,100	1,342	671	620	310	29,785	2,483	1,242	1,146	573
3	20,240	1,687	844	779	390	37,444	3,121	1,561	1,441	721
4	24,380	2,032	1,016	938	469	45,103	3,759	1,880	1,735	868
5	28,520	2,377	1,189	1,097	549	52,762	4,397	2,199	2,030	1,015
6	32,660	2,722	1,361	1,257	629	60,421	5,036	2,518	2,324	1,162
7	36,800	3,067	1,534	1,416	708	68,080	5,674	2,837	2,619	1,310
8	40,940	3,412	1,706	1,575	788	75,739	6,312	3,156	2,914	1,457
Each Add'l Member Add	+4,140	+345	+173	+160	+80	+7,659	+639	+320	+295	+148

[FR Doc. E8–7240 Filed 4–7–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: Opal Creek Scenic Recreation Area Advisory Council meetings will convene in Stayton, Oregon on Wednesday, April 23, 2008. These meetings are scheduled to begin at 6:30 p.m., and will conclude at approximately 8:30 p.m. Meetings will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation intersects. The council provides advice to the Secretary of Agriculture of preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. Tentative agenda items include: Elkhorn resort development presentation, abandoned mine closures, and Opal Creek management strategy.

A direct public comment period is tentatively schedule to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to scheduled meetings by sending them to Designated Federal Official Paul Matter at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Paul Matter; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: March 31, 2008.

Dallas J. Emch,

Forest Supervisor.

[FR Doc. E8–7181 Filed 4–7–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on April 23 and 24, 2008, 9 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on

technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, April 23

Public Session

1. Welcome and Introduction.
2. Atomic Layer Deposition and Cluster Tools.
3. History of U.S. Export Controls.
4. Census Data for Export Control.
5. Preliminary Discussion.
6. 4A003e: Equipment Performing Analog-to-Digital Conversions.

Thursday, April 24

Closed Session

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov*, no later than April 16, 2008.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 22, 2008, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: April 3, 2008.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E8–7371 Filed 4–7–08; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG92

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit (EFP)

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

ACTION: Notice; receipt of EFP applications; intent to issue EFPs; request for comments.

SUMMARY: NMFS announces the receipt of two exempted fishing permit (EFP) applications, and the intent to issue EFPs for vessels participating in the EFP fisheries. The EFPs are necessary to allow activities that are otherwise prohibited by Federal regulations. The EFPs will be effective no earlier than May 1, 2008, and would expire no later than December 31, 2008, but could be terminated earlier under terms and conditions of the EFPs and other applicable laws.

DATES: Comments must be received no later than 5 p.m., local time on May 8, 2008.

ADDRESSES: You may submit comments, identified by 0648–XG92 by any one of the following methods:

- Fax: 206–526–6736, Attn: Gretchen Arentzen.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Gretchen Arentzen.

FOR FURTHER INFORMATION CONTACT: To request copies of the EFP applications, contact Gretchen Arentzen (Northwest Region, NMFS), phone: 206–526–6147, fax: 206–526–6736.

SUPPLEMENTARY INFORMATION: This action is authorized by the Magnuson-Stevens Fishery Conservation and Management Act provisions at 50 CFR 600.745, which states that EFPs may be used to authorize fishing activities that would otherwise be prohibited. At the November 2007 Pacific Fishery Management Council (Council) meeting in San Diego, California, NMFS and the Council received applications for two EFPs from: (1) The Nature Conservancy and their collaborators and (2) the Recreational Fishing Alliance and Golden Gate Fisherman's Association. An opportunity for public testimony was provided during the Council meeting. The Council recommended that NMFS issue the EFPs and forwarded the EFP applications to NMFS with the contingency that all applicants improve the data analysis and reporting requirements detailed in their applications. NMFS is worked with the applicants and participants who would be fishing under the EFPs to resolve retention, data analysis and monitoring issues affecting these EFPs prior to their final application for EFPs.

All EFPs, if issued, would require that all rockfish species are retained and that prohibited rockfish species must be surrendered to the State in which they are landed. All vessels participating under an EFP would be required to have a human observer on board during every trip conducted under the EFP.

Community Based Fishing Association EFP

The Nature Conservancy (TNC) submitted their final EFP application package to NMFS on February 14, 2008, along with their collaborators: City of Morro Bay Harbor Department; Port San Luis Commercial Fishermen's Association; Port San Luis Harbor District; California Department of Fish and Game; Morro Bay Commercial Fishermen's Organization, Inc.; and Environmental Defense. The primary purpose of the EFP is to test whether establishing a cooperatively managed, community based fishing association that employs commercial trawl permits to use longline, trap, pot, and hook-and-line gear off the Central California coast, under shared total catch amounts for target and bycatch species, can provide several important economic and environmental performance benefits. In addition, fishing under this EFP is expected to provide valuable information on how to structure a more cost-effective monitoring system that emphasizes individual accountability in a rationalized fishery and also on the costs of managing a rationalized fishery.

Since 2003, TNC and Environmental Defense have been working on various projects with participants in the bottom trawl industry along the Central Coast of California. In 2005, NMFS approved a plan to protect more than 130,000 square miles (336,698 square km) of marine waters off the West coast as essential fish habitat (EFH) for groundfish (71 FR 24601, May 11, 2006). The plan prohibits fishing methods that can cause long-term damage to the ocean floor, such as bottom trawling,

within much of this area. At roughly the same time, TNC and Environmental Defense purchased several limited entry trawl permits (LEPs) from fishermen that operated trawl vessels along the central California coast. Under current federal regulations, bottom trawl LEPs cannot be converted to LEPs for harvesting groundfish with other gear types, such as hook and line and pot gears. This issue was identified by TNC when they purchased bottom trawl permits, and they have been exploring ways to mitigate the negative economic effects of the bottom trawl LEP purchases, while exploring a shift to other harvest mechanisms. The commercial fishery operating out of Morro Bay and Port San Luis has been much reduced in recent years, causing economic hardship on these fishing ports and the reduction of commercial fishing infrastructure, including processors and ice dealers.

In 2004, the Pacific Fishery Management Council (Council) began public scoping for development of a trawl rationalization and individual fishing quota (IFQ) program. As the Council moves forward with planning and analysis in drafting an Environmental Impact Statement, it would be useful to have practical information on how rationalized fisheries, fishing with individual quotas, would operate in the Pacific coast groundfish fishery. TNC developed a proposal for working with central California coast fishery participants to form a community based fishing association that would cooperatively manage fishing operations to maintain harvests within a total catch amount for target and incidental species, rather than under the cumulative trip limit structure in current Pacific coast groundfish regulations. Target species with total catch amounts include: sablefish, slope rockfish, longspine thornyhead, shortspine thornyhead, lingcod, chilipepper rockfish, splitnose rockfish, spiny dogfish, Dover sole, petrale sole, and other flatfish. Incidental catch species with total catch amounts include all of the overfished species: canary rockfish, yelloweye rockfish, widow rockfish, darkblotched rockfish, Pacific ocean perch, cowcod, and bocaccio. Catches would be closely monitored by TNC and NMFS to ensure total catch amounts are not exceeded.

If issued, this EFP would allow TNC to temporarily convert bottom trawl LEPs into longline, trap, pot, and hook and line gear LEPs. It would also allow TNC and designated vessels to land some groundfish species in excess of trip limits so that they may structure their fishing operation to better meet the needs of the community based fishing association. If the EFP is issued, no more than six vessels would participate in the EFP at any time. Vessels would be fishing between 36° N. lat. and 34°27.00′ N. lat. with longline, trap, pot and hook and line gear, and would be subject to the non-trawl Rockfish Conservation Area (RCA) in that region. All fish harvested under this EFP would be landed in Morro Bay or Port San Luis, California. Any groundfish species for which there is not a specified total catch amount would be subject to the open access trip limits applicable during the cumulative limit period in which fish are landed, and for the area between 36° N. lat. and 34°27.00′ N. lat. Without an EFP, these activities are otherwise prohibited by Federal regulations and TNC would not be able to test the usefulness of a community based fishing association and gear switching mechanisms to mitigate the impact of trawl effort reduction on communities and promote conservation of fishing resources.

Data collected during this project are expected to have a broader significance to the management of the Pacific coast groundfish fishery by providing insight into the challenges and successes of managing a community based fishing association under a rationalized fishery, as well as informing fishery monitoring provisions that would need to accompany an IFQ program for which individual accountability is a key component.

Recreational Chilipepper EFP

The Recreational Fishing Alliance (RFA) and the Golden Gate Fishermen's Association submitted their final EFP application package to NMFS on February 14, 2008. The primary purpose of the EFP is to do an area-based recreational fishing study to test if hook and line fishing gear can be used to access underutilized chilipepper rockfish seaward of the non-trawl RCA while keeping bycatch of overfished species low.

Because the Pacific coast groundfish fishery is a mixed stock fishery, catch of healthy stocks is constrained in order to reduce the catch of rebuilding groundfish species. Chilipepper rockfish are an underutilized species, and there has been increasing interest in recent years in developing fisheries to target chilipepper rockfish. This EFP would test development of a selective recreational target fishery in depths seaward of 150–fm (274–m) off California, between 40°10.00′ N. lat. and 34°27.00′ N. lat. (the North Central and South Central regions).

The RFA developed a proposal for a self-funding EFP fishery, where individual anglers would pay for an offshore chilipepper rockfish trip on a charter passenger fishing vessel that would operate throughout the year. Approximately 20 vessels would participate in this fishery, however only a few boats would fish at any one time in order to meet requirements for observer coverage. For every trip taken in the EFP fishery, each passenger would be subject to a 10 groundfish total bag limit for any groundfish species. Total catch of the target species, chilipepper rockfish, would be limited on each trip by the 10 fish bag limit per angler. Total catch of incidentally caught species, particularly overfished rockfish species, would be limited by total catch amounts for the entire EFP fishery. Incidental catch species with total catch amounts include all of the overfished species: canary rockfish, yelloweye rockfish, widow rockfish, darkblotched rockfish, Pacific ocean perch, cowcod, and bocaccio. Catches would be closely monitored by the RFA and NMFS to ensure total catch amounts for these overfished species are not exceeded.

If issued, this EFP would allow recreational fishing for chilipepper rockfish seaward of 150–fm (274–m) between 40°10.00′ N. lat. and 34°27.00′ N. lat. It would also passengers aboard the EFP charter fishing vessel to be exempt from recreational sub-bag limits for any groundfish species, such as bocaccio, and it would also allow passengers to retain and land overfished species, such as canary rockfish, yelloweye rockfish, and cowcod, because they would be required to retain all rockfish for catch accounting and conservation purposes. Without an EFP, these activities are otherwise prohibited by Federal regulations and the RFA would not be able to test a new market for offshore recreational fishing opportunities for underutilized species.

Data collected during this project are expected to have a broader significance to the management of the Pacific coast groundfish fishery by testing if a sustainable fishing opportunity could be provided in an offshore recreational fishery for chilipepper rockfish. Catch composition data and illustration of impacts to overfished species would be the primary measure of success for the recreational hook and line fishery that would be conducted under this EFP. If successful, and the EFP demonstrates that bycatch is avoided targeting chilipepper rockfish using hook and line gear seaward of 150–fm (274–m), it may be possible in the future that some of the central California recreational

fishing effort can be shifted offshore, where there are fewer interactions with overfished canary rockfish.

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

Dated: April 2, 2008.

Emily H. Menashes

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–7268 Filed 4–7–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG97

Fisheries of the South Atlantic; South Atlantic Fishery Management Council (Council)—Meeting of the Shrimp Review Panel

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

ACTION: Notice.

SUMMARY: The South Atlantic Fishery Management Council will hold a meeting of its Shrimp Review Panel via conference call.

DATES: The conference call will take place at 2 p.m. on April 24, 2008.

ADDRESSES: The meeting will be held via conference call. The public may call in to listen by calling toll free 866–256–9295.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, S.C., 29405; phone 843/571–4366 or toll free 866/SAFMC–10; FAX 843/769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The Council will convene a meeting of its Shrimp Review Panel via conference call to address the condition of the pink shrimp stock. Amendment 6 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region established a proxy for a minimum stock size threshold as a parent stock size capable of producing maximum sustainable yield the following year. The Panel will convene to review the current status of the pink shrimp stock and determine whether action by the Council is required at this time. The Panel will prepare a report with its recommendations for review by the Council's Scientific and Statistical Committee and the Shrimp Committee to determine if management action is needed.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) three days prior to the meetings.

Dated: April 2, 2008.

Tracey L. Thompson

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–7265 Filed 4–7–08; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its revised Martin Luther King, Jr. Day of Service Application Instructions using the Corporation's Electronic Application System, eGrants. Completion of the Martin Luther King, Jr. Day of Service Application Instructions is required for funding considerations.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by June 9, 2008.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Georgia State Office; Attention Ms. Rochelle Barry, State Program Director, Suite 902; 75 Piedmont Avenue, NE., Atlanta, GA 30303.

(2) By hand delivery or by courier to the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) *By fax to:* (404) 331–2898, Attention Ms. Rochelle Barry, State Program Director.

(4) Electronically through the Corporation's e-mail address system: *mlkgrants@cns.gov*.

FOR FURTHER INFORMATION CONTACT: Rochelle Barry, (404) 331–4646, ext. 2 or by e-mail at *mlkgrants@cns.gov*.

SUPPLEMENTARY INFORMATION: 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 Corporation, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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, e.g., permitting electronic submissions of responses.

Description

The purpose of these Martin Luther King, Jr. Day of Service Grants is to mobilize more Americans to observe the Martin Luther King, Jr. Federal Holiday as a day of service in communities and to bring people together around the common focus of service to others. The Corporation will award these funds to eligible applicants who will in turn subgrant to eligible local organizations or fund separate events to plan and carry out service activities.

Background

The Martin Luther King, Jr. Day of Service Grant application is completed by applicant organizations interested in supporting an MLK Day of Service Program. The application is completed electronically by using the Corporation's web-based system, eGrants.

Current Action

The Corporation seeks to create renewal application instructions specifically for the Martin Luther King, Jr. Day of Service grants. When finalized, the application will include additional instructions to clarify narrative and budget sections; will contain an updated list of ''Service Categories'' used by applicants to identify the types of needs the national service participants will meet; and will contain current references used in the grants management system.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Martin Luther King, Jr. Day of Service Application Instructions.

OMB Number: 3045–0110.

Affected Public: Eligible applicants to the Corporation for National and Community Service for funding of Martin Luther King, Jr. Day of Service Grants.

Total Respondents: 80.

Frequency: Annual.

Average Time per Response: Ten (10) hours.

Estimated Total Burden Hours: 800 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 2, 2008.

Elizabeth Seale,

Chief Operating Officer, Office of Chief Operating Officer.

[FR Doc. E8–7289 Filed 4–7–08; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB)

AGENCY: Department of Defense; Office of the Secretary of Defense Reserve Forces Policy Board.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces the following Federal advisory committee meeting:

NAME OF COMMITTEE: Reserve Forces Policy Board (RFPB).

DATE: April 15–16, 2008.

TIME: (15th) 8 a.m.–4:30 p.m.; (16th) 8 a.m.–4 p.m.

LOCATION: Meeting address is HQ U.S. Northern Command, Building 2, Peterson Air Force Base, Colorado 80914. Mailing address is Reserve Forces Policy Board, 7300 Defense Pentagon, Washington, DC 20301–7300.

PURPOSE OF THE MEETING: An open quarterly meeting of the Reserve Forces Policy Board.

AGENDA: Discussion of homeland security and other issues relevant to the Reserve Components.

MEETING ACCESSIBILITY: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space this meeting is open to the public. To request a seat, contact the DFO not later than 4/9/08 at 703–697–4486, or by e-mail, *marjorie.davis@osd.mil* and/or *donald.ahern@osd.mil*.

WRITTEN STATEMENTS: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Reserve Forces Policy Board at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Reserve Forces Policy Board's Designated Federal Officer. The Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

Written statements that do not pertain to a scheduled meeting of the Reserve Forces Policy Board may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

FOR FURTHER INFORMATION CONTACT: Col Marjorie Davis, Designated Federal Officer, (703) 697–4486 (Voice), (703) 614–0504 (Facsimile), *marjorie.davis@osd.mil*. Mailing address is Reserve Forces Policy Board, 7300 Defense Pentagon, Washington, DC 20301–7300.

SUPPLEMENTARY INFORMATION: Due to scheduling difficulties the Reserve Forces Policy Board was unable to finalize its agenda in time to publish notice of its meeting in the **Federal Register** for the 15-calendar days required by 41 CFR 102–3.150(a). Accordingly, the Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: April 2, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–7314 Filed 4–7–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.65, the Department of Defense gives notice that it is renewing the charter for the Defense Department Advisory Committee on Women in the Services (hereafter referred to as the Committee).

The Committee is a discretionary federal advisory committee established by the Secretary of Defense to provide the Department of Defense, and the Under Secretary of Defense (Personnel and Readiness), independent advice and recommendations on matters and policies relating to the recruitment and retention, treatment, employment, integration, and well-being of highly qualified professional women in the Armed Forces and provide advice and recommendations on family issues related to. The Committee, in accomplishing its mission: (a) Reports and recommends healthcare issues specific to female service members; and (b) provides recommendations to military spouse career and employment opportunity.

The Committee shall be composed of not more than 15 members, who represent a distribution of demography, professional career fields, community service, and geography, and selected on the basis of their experience in the military, as a member of a military family, or with women's or family-related workforce issues. Committee members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special

Government Employees under the authority of 5 U.S.C. 3109. Committee members shall be appointed on an annual basis by the Secretary of Defense, and shall serve no more than three years on the Committee; the Secretary of Defense may authorize a Committee member to serve longer than three years on the Committee. Committee members shall serve without compensation, with the exception of travel and per diem for official travel.

The Committee shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Committee, and shall report all their recommendations and advice to the Committee for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Committee nor can they report directly to the Department of Defense or any federal officers or employees who are not Committee members.

SUPPLEMENTARY INFORMATION: The Committee shall meet at the call of the Committee's Designated Federal Officer, in consultation with the Committee's chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Defense Department Advisory Committee on Women in the Services membership about the Committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meetings of the Defense Department Advisory Committee on Women in the Services.

All written statements shall be submitted to the Designated Federal Officer for the Defense Department Advisory Committee on Women in the Services, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Defense Department Advisory Committee on Women in the Service's Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Defense Department Advisory Committee on Women in the Services. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Contact Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–6128.

Dated: April 2, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–7316 Filed 4–7–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Meeting Notice

AGENCY: Department of the Army, DOD.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name of Committee: Army Education Advisory Committee.

Date: April 23, 2008.

Place: Crowne Plaza Williamsburg at Ft. Magruder, 6945 Pocahontas Trail, Williamsburg, VA 23185.

Time: 0830–1700.

Proposed Agenda: The meeting agenda includes a review of actions and recommendations from five subcommittees: Defense Language Institute Foreign Language Center, Command and General Staff College Board of Visitors, Army War College Board of Visitors, Distance Learning/Training Technology Applications Subcommittee, and the Reserve Officer Training Corps Subcommittee. Committee members will also be briefed on new Department of the Army initiatives: the College of the American Soldier and the Army Civilian University.

Purpose of the Meeting: To review recommendations submitted from the last meeting of each of the five subcommittees and forward approved recommendation to the Office of the Administrative Assistant, Secretary of the Army and the subcommittee decision maker. To provide for the continuous exchange of information and ideas for training and education between the U.S. Army Training and Doctrine Command (TRADOC), HQ Department of the Army, and the academic and business communities.

For Further Information Contact: All communications regarding this committee should be addressed to Mr. Carlton Hardy, at Commander, Headquarters TRADOC, ATTN: ATTG–VN (Mr. Hardy), Fort Monroe, VA 23651–5000; e-mail: *carlton.hardy@us.army.mil*.

Supplementary Information: Meeting of the advisory committee is open to the public. Because of limited meeting space, attendance will be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to attend. Contact Mr. Hardy (*carlton.hardy@us.army.mil*) for meeting agenda and specific locations.

Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentations or oral statements at the meeting.

Robert E. Seger,

Senior Executive Service, Assistant Deputy Chief of Staff, G–3/5/7.

[FR Doc. E8–7320 Filed 4–7–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Proposed University of California Merced and University Community Project, Corps Permit Application Number 199900203

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The University of California, Merced (University) and University Community Land Company (UCLC) LLC have submitted an application to the U.S. Army Corps of Engineers (Corps) under the Clean Water Act Section 404 and River and Harbor Act Section 10 for a proposal to construct an approximately 810-acre campus and an associated University Community in Merced County. The Proposed Action is located in eastern Merced County, east of Lake Road and Yosemite Lake, approximately 2 miles northeast of the City of Merced, California.

The Proposed Action consists of three major components: the 810-acre Campus; the 870-acre Community North; and the 1,245-acre Community South. The University controls the land that comprises the campus. University Community Land Company, LLC (UCLC), a not-for-profit corporation, owns the land that comprises Community North. LWH Farms, LLC

owns the land that comprises Community South. The University is currently preparing an amendment to its Long Range Development Plan to guide the development of the proposed campus. The proposed campus and Community North would consist of the following five districts: Academic Core; Gateway District; Student Neighborhoods; University Community Town Center; and University Community Neighborhoods. Community South would be developed in accordance with the previously adopted University Community Plan, which designates the Community South area for Multiple Use Urban Development and agricultural uses.

The Campus and the northern portion of the University Community would affect 76.6 acres of the waters of the United States, including vernal pools and other wetlands. The primary federal involvement is the fill materials within waters of the United States, work and structures in affecting navigable waters of the United States, and potential impacts on the human environment from such activities.

DATES: The Corps and the University will jointly conduct a public scoping meeting that will be held on Wednesday April 23, 2008.

ADDRESSES: The scoping meeting will be held in the California Room at UC Merced, located at 5200 N. Lake Road, Merced, CA 95340.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Haley, (916) 557–7731, e-mail: *ucmerced@usace.army.mil*.

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit written comments on the permit application on or before April 28, 2008. Scoping comments should be submitted within the next 60 days, but may be submitted at any time prior to publication of the Draft EIS. To submit comments on this notice or for questions about the proposed action and the Draft EIS, please contact Nancy Haley, 1325 J Street (Room 1480), Sacramento, CA 95814–2922. Parties interested in being added to the Corps' electronic mail notification list for the University can register at: *http://www.spl.usace.army.mil/regulatory/register.html*. Please refer to Identification Number 200601050 in any correspondence.

The University and UCLC have submitted an application for a Department of the Army permit. Because the campus and Community North are immediately adjacent to each other, the land use planning of these two areas is closely integrated and the actions are connected. The overall purpose of the Proposed Action is to establish a major research university in Merced County that would ultimately support 25,000 full-time equivalent students with an associated community needed to support the university. Projections by the California Department of Finance and the University indicated that a new campus is needed to accommodate near-term enrollment demand and an enrollment of 25,000 students in the long term. An adjacent community is needed to support the university by providing housing and other amenities.

To comply with the National Environmental Policy Act (NEPA), the Corps is requiring the preparation of an EIS prior to rendering a final decision on the University and UCLC's permit application. The Corps may ultimately make a determination to permit or deny the Proposed Action or permit or deny modified versions of the Proposed Action. The EIS will also provide the technical basis for the Corps to use in its preparation of its 404(b)(1) Guidelines compliance document as part of the Record of Decision (ROD). To comply with the requirements of the California Environmental Quality Act (CEQA), the University will prepare an Environmental Impact Report (EIR) for the UC Merced and University Community project. The Corps and the University have agreed to jointly prepare an EIS/EIR for the Proposed Action in order to optimize efficiency and avoid duplication.

The EIS/EIR will include alternatives to the Proposed Action that will meet both NEPA and CEQA requirements. The alternatives will also meet the requirements of *CWA Section 404(b)(1) Guidelines*. At this time it is expected that the joint EIS/EIR will evaluate the following alternatives: (1) No Action Alternative; (2) Proposed Action; (3) Yosemite Avenue Alternative (formerly referred to as Alternative 20); (4) Downtown Merced Alternative; (5) Bellevue Ranch Alternative (formerly referred to as Off-Site Alternative 2); (6) Previously Proposed Campus and Community; and (7) No Build Alternative.

The Corps' public involvement program includes several opportunities to provide oral and written comments. Affected federal, state, local agencies, Indian tribes, and other interested private organizations and parties are invited to participate. The EIS/EIR will address several potential environmental issues including: Impacts to waters of the United States, including vernal pools and other wetlands; aesthetics, agricultural resources; air quality, cultural resources; geology and soils; hazards and hazardous materials; hydrology and water quality; land use and planning; noise and vibration; navigation; public health and safety; public services and utilities; recreation; socioeconomics; traffic and transportation. Additional issues may be identified during the scoping process.

The Corps has initiated formal consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act for federally threatened and endangered species that may be affected by the Proposed Action. In addition, the Corps will consult with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act regarding potential impacts to sites listed, or eligible for listing, on the National Register for Historic Places.

The joint lead agencies expect the Draft EIS/EIR to be made available to the public in August, 2008. A public hearing will be held during the public comment period for the Draft EIS/EIR.

Dated: March 27, 2008.

James A. Porter,

Lieutenant Colonel, U.S. Army, Deputy District Enginee.

[FR Doc. E8–7315 Filed 4–7–08; 8:45 am]

BILLING CODE 3710–EH–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Chief of Engineers Environmental Advisory Board (EAB).

Topic: The EAB will discuss national considerations related to ecosystem restoration through integrated water resources management with emphasis on communications and the implementation of the Environmental Operating Principles.

Date of Meeting: April 30, 2008.

Place: Red Lion Hotel, 1415 5th Avenue, Seattle, WA.

Time: 9 a.m. to 12 p.m.

Forty-five minutes will be set side for public comment. Members of the public who wish to speak are asked to register prior to the start of the meeting.

Registration will begin at 8:30. Statements are limited to 3 minutes.

FOR FURTHER INFORMATION CONTACT: Ms. Rennie Sherman, Executive Secretary, *rennie.h.sherman@usace.army.mil* 202–761–7771.

SUPPLEMENTARY INFORMATION: The EAB advises the Chief of Engineers by providing expert and independent advice on environmental issues facing the Corps of Engineers. The public meeting will include discussion between the EAB and the Chief of Engineers as well as presentations by the EAB and Corps staff. The meeting is open to the public, and public comment is tentatively scheduled for 45 minutes beginning at 11:15.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–7318 Filed 4–7–08; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; SPADAC, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to SPADAC, Inc., a revocable, nonassignable, exclusive license in the United States and certain foreign countries, the Government-owned invention described in U.S. Patent No. 7,120,620: Method and System for Forecasting Events and Threats Based on Geospatial Modeling, Navy Case No. 96,695 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than April 23, 2008.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone: 202–767–3083. Due to U.S. Postal delays, please fax: 202–404–7920, e-mail: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: April 1, 2008.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–7261 Filed 4–7–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Waivers Granted Under Section 9401 of the Elementary and Secondary Education Act, as Amended

SUMMARY: In this notice, we enumerate the waivers that the U.S. Department of Education (Department) granted during calendar year 2007 under the waiver authority in section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001.

In 2007, the Department granted a total of 35 waivers under the ESEA section 9401 waiver authority. The waivers granted were as follows: (1) Four waivers related to Hurricanes Katrina and Rita; (2) four growth model pilots; (3) four waivers allowing local educational agencies (LEAs) in need of improvement to be eligible to apply to their State educational agency (SEA) to become supplemental educational services (SES) providers; (4) four waivers allowing LEAs to provide SES rather than public school choice to eligible students attending schools that receive funding under Part A of Title I of the ESEA (Title I schools) and are in the first year of school improvement; (5) two substitute assessment waivers; (6) one waiver of the notification requirements regarding public school choice under Part A of Title I; (7) one schoolwide eligibility waiver; (8) one Title I, Part A within-district allocation waiver; (9) one transferability waiver; and (10) thirteen waivers allowing recipients of funds under the Indian Education program to charge additional administrative costs to the program.

Waiver Data

I. Waivers Related to Hurricanes Katrina and Rita

1. Waiver Applicant: Louisiana Department of Education

- Provision waived: Section 1127(b) of the ESEA.
- Date waiver granted: March 9, 2007.
- Description of waiver: Permits Louisiana to waive for its LEAs, more than once every three years, the 15 percent carryover limitation applicable to Title I, Part A funds.

2. Waiver Applicant: Louisiana Department of Education

- Provision waived: Tydings Amendment, section 421(b) of the General Education Provisions Act (GEPA).
- Date waiver granted: March 9, 2007.
- Description of waiver: Extended until September 30, 2008 the period of availability for fiscal year 2005 ESEA funds.

3. Waiver Applicant: Mississippi Department of Education

- Provision waived: Section 1127(b) of the ESEA.
- Date waiver granted: July 10, 2007.
- Description of waiver: Permits Mississippi to waive for its LEAs, more than once every three years, the 15 percent carryover limitation applicable to Title I, Part A funds.

4. Waiver Applicant: Mississippi Department of Education

- Provision waived: Tydings Amendment, section 421(b) of GEPA.
- Date waiver granted: October 12, 2007.
- Description of waiver: Extended until September 30, 2008 the period of availability for fiscal year 2005 Title I, Part A funds.

II. Growth Model Pilots

1. Waiver Applicant: Alaska Department of Education

- Provision waived: Section 1111(b)(2) of the ESEA.
- Date waiver granted: July 3, 2007.
- Description of waiver: Provided Alaska the flexibility to implement a growth-based accountability model as part of determining adequate yearly progress (AYP) beginning in the 2006–2007 school year.

2. Waiver Applicant: Arizona Department of Education

- Provision waived: Section 1111(b)(2) of the ESEA.
- Date waiver granted: July 3, 2007.
- Description of waiver: Provided Arizona the flexibility to implement a growth-based accountability model as part of determining AYP beginning in the 2006–2007 school year.

3. Waiver Applicant: Iowa Department of Education

- Provision waived: Section 1111(b)(2) of the ESEA.
- Date waiver granted: August 15, 2007.
- Description of waiver: Provided Iowa the flexibility to implement a growth-based accountability model as part of determining AYP beginning in the 2006–2007 school year.

4. Waiver Applicant: Ohio Department of Education

- Provision waived: Section 1111(b)(2) of the ESEA.
- Date waiver granted: August 15, 2007.
- Description of waiver: Provided Ohio the flexibility to implement a growth-based accountability model as part of determining AYP beginning in the 2006–07 school year, conditional upon Ohio's adopting a uniform minimum group size for all students in the State, including students with disabilities and limited English proficient students.

III. Allowing LEAs in Need of Improvement To Be Eligible To Apply to Their SEA To Become Supplemental Educational Services (SES) Providers

1. Waiver Applicant: Anchorage School District, AK

- Provision waived: 34 CFR 200.47(b)(1)(iv)(B).
- Date waiver granted: August 7, 2007.
- Description of waiver: Permitted the Anchorage School District to be eligible to apply to its SEA to become a provider of SES to eligible students during the 2007–2008 school year even though the district was identified for improvement.

2. Waiver Applicant: Boston Public Schools, MA

- Provision waived: 34 CFR 200.47(b)(1)(iv)(B).
- Date waiver granted: August 7, 2007.
- Description of waiver: Permitted Boston Public Schools to be eligible to apply to its SEA to become a provider of SES to eligible students during the 2007–2008 school year even though the district was identified for improvement.

3. Waiver Applicant: Chicago Public Schools, IL

- Provision waived: 34 CFR 200.47(b)(1)(iv)(B).
- Date waiver granted: August 9, 2007.
- Description of waiver: Permitted Chicago Public Schools to be eligible to apply to its SEA to become a provider of SES to eligible students during the 2007–2008 school year even though the district was identified for improvement.

4. Waiver Applicant: Hillsborough County Public Schools, FL

- Provision waived: 34 CFR 200.47(b)(1)(iv)(B).
- Date waiver granted: August 7, 2007.
- Description of waiver: Permitted Hillsborough County Public Schools to be eligible to apply to its SEA to become a provider of SES to eligible students during the 2007–2008 school year even though the district was identified for improvement.

IV. Allowing LEAs To Provide SES Rather Than Public School Choice to Eligible Students in Title I Schools in the First Year of School Improvement

1. Waiver Applicant: Alaska Department of Education and Early Development

- Provisions waived: Sections 1116(b)(1)(E) and 1116(b)(5)(B)
- Date waiver granted: August 1, 2007.
- Description of waiver: For the 2007–2008 school year, permitted two school districts—Anchorage School District and Juneau School District—to offer SES, rather than public school choice, to eligible students in Title I schools in the first year of school improvement.

2. Waiver Applicant: Indiana Department of Education

- Provisions waived: Sections 1116(b)(1)(E) and 1116(b)(5)(B)
- Date waiver granted: August 1, 2007.
- Description of waiver: For the 2007–2008 school year, permitted three school districts—Blackford County Schools, Metropolitan School District of Decatur Township, and Monroe County Community School Corporation—to offer SES, rather than public school choice, to eligible students in Title I schools in the first year of school improvement.

3. Waiver Applicant: North Carolina Department of Public Instruction

- Provisions waived: Sections 1116(b)(1)(E) and 1116(b)(5)(B)
- Date waiver granted: August 1, 2007.
- Description of waiver: For the 2007–2008 school year, permitted seven school districts—Burke County, Cumberland County, Durham County, Guilford County, Moore County, Northampton County, and Pitt County—to offer SES, rather than public school choice, to eligible students in Title I schools in the first year of school improvement.

4. Waiver Applicant: Virginia Department of Education

- Provisions waived: Sections 1116(b)(1)(E) and 1116(b)(5)(B)
- Date waiver granted: August 1, 2007.
- Description of waiver: For the 2007–2008 school year, permitted seven school districts—Fairfax County Public Schools, Fauquier County Public Schools, Greene County Public Schools, Hampton City Public Schools, Henrico County Public Schools, Henry County Public Schools, and Newport News City Public Schools—to offer SES, rather than public school choice, to eligible students in Title I schools in the first year of school improvement.

V. Substitute Assessment Waivers

1. Waiver Applicant: Maryland Department of Education

- Provision waived: 34 CFR 200.3(a)(1)(i).
- Date waiver granted: August 28, 2007.
- Description of waiver: Permits Maryland to use the results of Advanced Placement (AP) and International Baccalaureate (IB) assessments, through the 2009–2010 school year, as substitutes for the high school end-of-course assessments for purposes of determining AYP.

2. Waiver Applicant: Virginia Department of Education

- Provision waived: 34 CFR 200.3(a)(1)(i).
- Date waiver granted: July 16, 2007.
- Description of waiver: Permits Virginia to use the results of AP and IB assessments, through the 2009–2010 school year, as substitutes for the high school end-of-course assessments for purposes of determining AYP.

VI. Public School Choice Notification Waiver

1. Waiver Applicant: Pinellas County Schools, FL

- Provision waived: 34 CFR 200.44(a)(4)(i).
- Date waiver granted: August 20, 2007.
- Description of waiver: As a result of actions Pinellas County Schools was required to take under desegregation and related court orders, waived the requirement that the LEA identify two or more specific schools to which parents may transfer their children under the public school choice provisions of Title I.

VII. Schoolwide Eligibility Waiver

1. Waiver Applicant: Bismarck Public Schools, ND

- Provision waived: Section 1114(a)(1) of the ESEA.
- Date waiver granted: November 19, 2007.
- Description of waiver: Permits a middle school to implement a schoolwide program even though less than 40 percent of its students are from low-income families.

VIII. Title I Within-District Allocation Waiver

1. Waiver Applicant: Keene School District, NH

- Provision waived: Section 1113(a)(2)(B) of the ESEA.
- Date waiver granted: June 14, 2007.
- Description of waiver: Allows two elementary schools that have fallen slightly below the district-wide poverty rate to remain eligible for Title I, Part A services.

IX. Transferability Waiver

1. Waiver Applicant: Jefferson County Public Schools, KY

- Provision waived: Section 6123(b)(1) of the ESEA.
- Date waiver granted: July 13, 2007.
- Description of waiver: Permits the district, which has been identified for corrective action, to continue to transfer up to 30 percent of certain Federal funds to its allocations under Part A of Title V to support its high school dropout prevention program.

X. Waivers of the Administrative Cost Limitation That Applies to Indian Education Funds

On July 17, 2007, the Department granted the following school districts waivers of section 7115(d) of the ESEA, which establishes a five percent administrative cost limitation on funds awarded under the Indian Education Formula Grant program:

- San Carlos Unified School District, AZ;
- Whiteriver Unified School District, AZ;
- Eureka Unified School District, CA;
- Shasta Union High School District, CA;
- Ventura Unified School District and Ventura County School District, CA;
- Bay City Public Schools, MI;
- Broken Arrow Public Schools, OK;
- Colcord Public Schools, OK;
- Muskogee Public Schools, OK;
- Norman Public Schools, OK;
- Oolagah-Talala Public Schools, OK;
- Tulsa Public Schools, OK;
- Spokane Public Schools (School District 81), WA.

FOR FURTHER INFORMATION CONTACT: Susan Winingar, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W310, Washington, DC 20202. Telephone: (202) 260–0942 or by e-mail: *susan.winingar@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339. Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

Electronic Access to This Document: You may 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.

Dated: April 3, 2008.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E8–7383 Filed 4–7–08; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission (EAC).

ACTION: Notice of Virtual Public Forum for EAC Board of Advisors.

DATE AND TIME: Monday, April 21, 2008, 9 a.m. EDT through Friday, April 25, 2008, 5 p.m. EDT.

PLACE: EAC Board of Advisors Virtual Meeting Room at *http://www.eac.gov.* Once at the main page of EAC's Web site, viewers should click the link to the Board of Advisors Virtual Meeting Room. The virtual meeting room will open on Monday, April 21, 2008, at 9 a.m. EDT and will close on Friday, April 25, 2008, at 5 p.m. EDT. The site will be available 24 hours per day during that 5-day period.

PURPOSE: The EAC Board of Advisors will review and provide comment on eight draft chapters of the Election Management Guidelines. The draft chapters contain recommendations and best practices regarding: Absentee voting and vote by mail; acceptance testing; ballot building; contingency planning and change management; developing an audit trail; polling place and vote center management; pre-election and parallel testing; and uniformed and overseas voters.

The EAC Board of Advisors Virtual Meeting Room was established to enable the Board of Advisors to conduct business in an efficient manner in a public forum, including being able to review and discuss draft documents, when it is not feasible for an in-person board meeting. The Board of Advisors will not take any votes or propose any resolutions during the 5-day forum of April 21–25, 2008. Members will post comments about the eight draft chapters of the Election Management Guidelines.

This activity is open to the public. The public may view the proceedings of this special forum by visiting the EAC Board of Advisors Virtual Meeting Room at *http://www.eac.gov* at any time between Monday, April 21, 2008, 9 a.m. EDT and Friday, April 25, 2008, 6 p.m. EDT. The public also may view the draft chapters of the Election Management Guidelines, which will be posted on EAC's Web site beginning April 21, 2008. The public may file written statements to the EAC Board of Advisors at *boardofadvisors@eac.gov*. Data on EAC's Web site is accessible to visitors with disabilities and meets the requirements of section 508 of the Rehabilitation Act.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Gracia M. Hillman,

Commissioner, U.S. Election Assistance Commission.

[FR Doc. E8–7149 Filed 4–7–08; 8:45 am]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13082–000]

Robertson Energy Group LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 31, 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.:* 13082–000.

c. *Date filed:* November 21, 2007.

d. *Applicant:* Robertson Energy Group LLC.

e. *Name of Project:* Carlyle Lake Hydroelectric Project.

f. *Location:* Kaskaskia River in Clinton County, Illinois. It would use the U.S. Army Corps of Engineers' Carlyle Lake Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James R. Robertson, Robertson Energy Group

LLC, 5702 Reno Court, Boonsboro, MD 21713, (301) 432–7882.

i. *FERC Contact:* Henry Woo, (202) 502–8872.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and 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 ''eFiling'' link. The Commission strongly encourages electronic filings. Please include the project number (P–13082–000) 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' Carlyle Lake Dam, would consist of: (1) A new intake structure; (2) five 600-foot long steel penstocks approximately 8 feet in diameter; (3) a new powerhouse containing five generating units with a total installed capacity of 4.0 megawatts; (4) a new 3,000-foot long, 5 kilovolt transmission line; and (5) appurtenant facilities. The proposed Carlyle Lake Hydroelectric Project would have an average annual generation of 32 gigawatt-hours, which would be used to service its customers.

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.

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'', 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. 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 motion to intervene must also be served upon each representative of the Applicant specified in 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 the ''eFiling'' link. The Commission strongly encourages electronic filings.

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. E8–7287 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EG08–19–000; EG08–20–000; EG08–21–000; EG08–22–000; EG08–23–000; EG08–24–000; EG08–25–000; EG08–27–000; EG08–28–000]

Sweetwater Wind 5 LLC; South Trent Wind LLC; Forward Windpower, LLC; Lookout Wind Power, LLC; Breech Ridge Energy LLC; Las Vegas Cogeneration Limited Partnership; Buffalo Gap Wind Farm 3, LLC; Rail Splitter Wind Farm, LLC; Waterbury Generation, LLC; Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

March 31, 2008.

Take notice that during the month of February 2008, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7286 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–29–000]

Vector Pipeline L.P.; Notice of Availability of the Environmental Assessment for the Proposed Athens Compressor Expansion Project

March 31, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Vector Pipeline L.P. (Vector) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of Vector's proposed Athens Compressor Expansion (ACE) Project. The ACE Project would involve construction of a new 15,000-horsepower compressor station along Vector's existing pipeline system in Calhoun County, Michigan and modifications at the existing Springville and Highland Compressor Stations, which are located along Vector's pipeline system in LaPorte County, Indiana and Oakland County, Michigan, respectively. The ACE Project would increase mainline capacity by approximately 105,000 dekatherms per day.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to Federal, State, and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below.

Please note that the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the link to ''*Documents and Filings*'' and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on ''*Sign up*'' or ''*eRegister.*'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''*Quick Comment*'' option available, which is an easy method for interested persons to submit text only comments on a project. The *Quick-Comment User Guide* can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf.* Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket.

If you are filing written comments, please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Reference Docket No. CP08–29–000;
- Label one copy of the comments for the attention of the Gas Branch 1, PJ–11.1; and
- Mail your comments so that they will be received in Washington, DC, on or before April 30, 2008.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7288 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–577–000; ER08–577–001; ER08–578–000; ER08–578–001; ER08–579–000; ER08–579–001]

Nobel Bellmont Windpark, LLC; Noble Chateaugay Windpark, LLC; Noble Wethersfield Windpark, LLC; Notice of Issuance of Order

April 1, 2008.

Noble Bellmont Windpark, LLC, Noble Chateaugay Windpark, LLC, Noble Wethersfield Windpark, LLC (Noble Applicants) filed applications for market-based rate authority, with accompanying market-based rate tariffs. The proposed market-based rate tariffs provides for the sale of energy, capacity and ancillary services at market-based rates. The Noble Applicants also requested waivers of various Commission regulations. In particular, the Noble Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by the Noble Applicants.

On March 27, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the request for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by the Noble Applicants, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is April 28, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, the Noble Applicants are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the Noble Applicants, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of the Noble Applicants' issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7283 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2030–141]

Portland General Electric Company; Notice of Application and Soliciting Comments, Motions To Intervene, and Protests

March 31, 2008.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Project License.

b. *Project No.:* 2030–141.

c. *Date Filed:* March 20, 2008.

d. *Applicant:* Portland General Electric Company and the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWS).

e. *Name of Project:* Pelton Round Butte Hydroelectric Project.

f. *Location:* The project is located on the Deschutes River in Jefferson County, Oregon. The project occupies 3,503.74 acres of federal and tribal lands administered by the U.S. Forest Service (FS), U.S. Bureau of Land Management, and U.S. Bureau of Indian Affairs.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Julie A. Keil, Director of Hydro Licensing, Portland General Electric Company, 121 SW Salmon, Portland, OR 97204, (503) 464–8864.

i. *FERC Contact:* Any questions on this notice should be addressed to Christopher Yeakel at (202) 502–8132, or by e-mail: *christopher.yeakel@ferc.gov*.

j. *Deadline for filing comments and/or motions:* 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, DHAC, PJ–12.1, 888 First Street, NE., Washington, DC 20426. Please include the project number (p–2030–141) on any comments or motions filed. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

k. *Description of Proposal:* The licensees propose to amend the approved Recreation Resources Implementation Plan (RRIP) pursuant to article 424 of the project license by modifying the schedule and revising those measures outlined in table 1 of the RRIP. The proposed modifications consist of the addition, deletion, and postponement of various measures determined by the Recreation Resources Working Group to address resource concerns and evolving recreation needs. The specific proposed changes are detailed in the licensees' annual report pursuant to article 424 filed on March 20, 2008, and pertain to Cove Palisades State Park, Street Creek Boat Launch, Perry South and Monty Campgrounds, Pelton Bark, and Lake Billy Chinook. Proposed changes at Cove Palisades State Park include postponing of road repairs, installing additional parking, lawn areas, and a restroom, and eliminating a new trail segment to Willow Creek from the Canyon Rim Trail and a boat-in camping area. Proposed changes at Street Creek Boat Launch include the eliminating a new restroom and courtesy dock, delaying installation of additional gravel parking, and adding a measure to develop an

operation and maintenance agreement with the FS for portable facilities that will be provided if and when the Perry South boat ramp is closed.

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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free 1–866–208–3676, or for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''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. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7285 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–48–000]

Braintree Electric Light Department, Hingham Municipal Lighting Plant, Hull Municipal Lighting Plan, Mansfield Municipal Electric Department, Middleborough Gas & Electric Department, Taunton Municipal Light Plant v. ISO New England Inc.; Notice of Complaint

April 1, 2008.

Take notice that on March 28, 2008, Braintree Electric Light Department, Hingham Municipal Lighting Plant, Hull Municipal Lighting Plant, Mansfield Municipal Electric Department, Middleborough Gas & Electric Department, and Taunton Municipal Light Plant (Complainants) filed a formal complaint against ISO New England Inc. (Respondent), alleging that the Respondent violated its tariff by assessing certain out-of-merit generation costs as Local Second Contingency Protection Resource charges to be allocated among all load in Southeast Massachusetts, pursuant to section 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 and section 205 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e).

The Complainants have requested fast track processing of their complaint.

The Complainants also disagree with the Critical Energy Infrastructure Information (CEII) designation of the complaint and accompanying testimony which includes information designated by the Respondent as CEII and request that the Commission remove the CEII designation and release the unredacted copy of the complaint to make it publicly available.

The Complainants state that a copy of the complaint has been served on the Respondent and on all persons on the Commission's official service list under Docket No. ER07–921–000.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll-free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 28, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7284 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–49–000]

BJ Energy LLC, Franklin Power LLC, GLE Trading LLC, Ocean Power LLC, Pillar Fund LLC, Complainants, v. PJM Interconnection, L.L.C., Respondent; Notice of Complaint

April 1, 2008.

Take notice that on March 28, 2008, BJ Energy LLC, Franklin Power LLC, GLE Trading LLC, Ocean Power LLC, and Pillar Fund LLC (Complainants) filed a formal complaint against PJM Interconnection, L.L.C. (Respondent) alleging that the Respondent is violating its own tariff on an ongoing basis because of (1) the Respondent's refusal to return excess collateral requested by the Complainants and due and payable to the Complainants, and (2) the Respondent's refusal to distribute certain amounts of revenue due and payable to the Complainants. The Complainants request the Commission to direct the Respondent to immediately return the revenues due and the excess collateral requested by the Complainants, pursuant to sections 206 of the Commission's Rules of Practice

and Procedure, 18 CFR 385.206 and sections 205, 206, 306 and 309 of the Federal Power Act, 16 U.S.C. 824(d), 824(e), 825(e) and 825(h).

The Complainants state that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 17, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7282 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM07–18–000]

Elimination of FERC Form No. 423; Notice Providing for Termination of Collection of FERC Form No. 423

March 28, 2008.

On March 11, 2008, the Commission issued a Final Rule in the above-referenced proceeding, amending its regulations at 18 CFR 141.61, to eliminate the collection of the FERC Form No. 423, ''Monthly Report of Cost and Quality of Fuels for Electric Plants'' (Form 423), 122 FERC ¶ 61,225 (2008). The Commission stated that it intended to cease collection of the Form 423 ending with the December 2007 report, which was due February 15, 2008, but that it would coordinate its actions with the Energy Information Administration's (EIA) collection of this data on its newly authorized EIA–923, ''Power Plant Operations Report'' to ensure that there would not be a break in the monthly collection of data. EIA has indicated that it will begin the collection of its EIA–923 starting with the January 2008 report.

The Commission by this notice therefore announces that it has terminated collection of the Form 423 ending with the December 2007 report, which was due February 15, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7281 Filed 4–7–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8552–7; Docket ID No. EPA–HQ–ORD–2008–0057]

Draft Toxicological Review of Thallium: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Peer Review Workshop.

SUMMARY: EPA is announcing that Eastern Research Group, Inc. (ERG), an EPA contractor for external scientific peer review, will convene an independent panel of experts and organize and conduct an external peer review workshop to review the external review draft document titled, ''Toxicological Review of Thallium: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (NCEA–S–2949; EPA/635/R–08/001). EPA previously announced the 60-day public comment period (ending April 15, 2008) for the draft document in the **Federal Register** on February 15, 2008 (73 FR 8867). EPA will consider public comments and recommendations from the expert panel workshop as EPA finalizes the draft document.

The public comment period and the external peer review workshop are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward public comments submitted in accordance with the **Federal Register** notice (73 FR 8867) to ERG for consideration by the external peer review panel prior to the workshop.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The public may attend this workshop as observers through a registration process, and time will be set aside for observers to give brief oral comments at the workshop regarding the draft document under review. Pre-registration is strongly recommended as space is limited, and registrations will be accepted on a first-come, first-served basis. The deadline for pre-registration is Monday, May 12, 2008. If space allows, registrations will continue to be accepted after this date, including on-site registrations. Time will be set aside to hear comments from observers, and individuals will be limited to a maximum of five minutes during the morning session of peer review workshop. When you register, please indicate that you wish to make oral comments during the comment period.

The draft document and EPA's peer review charge are available via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*. When finalizing the draft document, EPA intends to consider the comments and recommendations from the external peer review workshop and any public comments that EPA receives in accordance with 73 FR 8867, February 15, 2008. Public comments submitted during the 60-day public comment period ending April 15, 2008, may be observed at *http://www.regulations.gov* under Docket ID No. EPA–HQ–ORD–2008–0057.

DATES: The peer review workshop will begin on Monday, May 19, 2008, at approximately 8:30 a.m. and end at no later than 4:30 p.m., Eastern time. Observers must register by May 12, 2008, and indicate that you wish to make brief oral comments at the workshop.

ADDRESSES: The peer review workshop will be held at the Navy League Building, 2300 Wilson Blvd, Arlington, Virginia 22201. ERG is organizing, convening, and conducting the peer review workshop. To attend the workshop as an observer, register by May 12, 2008, via the Internet at *http://www2.ergweb.com/projects/conferences/peerreview/register-thallium.htm*. You may also register by e-mail at *meetings@erg.com* (subject line: Thallium), by phone: 781–674–7374 or toll free at 800–803–2833, or by faxing a registration request to 781–674–2906 (please reference the ''Thallium Peer Review Workshop'' and include your name, title, affiliation, full address and contact information).

The draft ''Toxicological Review of Thallium: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*. A limited number of paper copies are available from NCEA's Information Management Team, telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title. Copies are not available from ERG. The 1988 Midwest Research Institute (MRI) study referenced in the draft Toxicological Review of Thallium is available by contacting EPA's IRIS Hotline (by phone at 202–566–1676, by facsimile at 202–566–1749, or by e-mail at *hotline.iris@epa.gov*), via the docket at *http://www.regulations.gov* under Docket ID No. EPA–HQ–ORD–2008–0057, or at the NCEA home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*.

FOR FURTHER INFORMATION CONTACT: For information on the peer review workshop, contact ERG, 110 Hartwell Avenue, Lexington, MA 02421–3136; telephone: 781–674–7374; facsimile: 781–674–2906; or e-mail: *meetings@erg.com* (subject line: Thallium). If you have questions about the document, contact Susan Rieth, IRIS Staff, National Center for Environmental Assessment, (8601D), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703–347–8582; facsimile: 703–347–8689; or e-mail: *rieth.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. Workshop Information

Members of the public may attend the workshop as observers, and there will be a limited time for oral comments from the public. Please let ERG know if you wish to make comments during the workshop by registering on the Web site at *https://www2.ergweb.com/projects/conferences/peerreview/register-thallium.htm* and indicating your intent to make oral comments. Space is limited, and reservations will be accepted on a first-come, first-served basis.

Dated: April 1, 2008.

Rebecca Clark,

Director, National Center for Environmental Assessment.

[FR Doc. E8–7350 Filed 4–7–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC to Hold Open Commission Meeting, Thursday, April 10, 2008

April 3, 2008

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 10, 2008, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	International	TITLE: Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands; Globalstar Licensee LLC, Authority to Implement an Ancillary Terrestrial Component (IB Docket No. 07–253). SUMMARY: The Commission will consider a Report and Order and Order Proposing Modification increasing the spectrum available for code division multiple access satellite systems in the 1.6/2.4 GHz Big LEO bands to provide ancillary terrestrial component service from 11 MHz to 19.275 MHz, and technical rules to prevent interference to other services.
2	Public Safety & Homeland Security.	TITLE: Petition for Notice of Inquiry Regarding 911 Call-Forwarding Requirements and Carriers' Blocking Options for Non-Initialized Phones. SUMMARY: The Commission will consider a Notice of Proposed Inquiry in response to a Petition filed by nine public safety organizations.
3	Public Safety & Homeland Security.	TITLE: Commercial Mobile Alert System (PSHS Docket No. 07–287). SUMMARY: The Commission will consider a Report and Order concerning implementation of the Warning, Alert and Response Network (''WARN'') Act.

Item No.	Bureau	Subject
4	Wireline Competition	TITLE: TracFone Wireless, Inc. Petition for designation as an Eligible Telecommunications Carrier in New York, Florida, Virginia, Connecticut, Massachusetts, Alabama, North Carolina, Tennessee, Delaware, and New Hampshire (CC Docket No. 96–45). SUMMARY: The Commission will consider an Order addressing petitions by TracFone Wireless, Inc. for designation as an Eligible Telecommunications Carrier (ETC), eligible only to receive universal service Lifeline support, in several states and the District of Columbia.
5	Enforcement	TITLE: Various Manufacturers, Notices of Apparent Liability for Forfeiture. SUMMARY: The Commission will consider Notices of Apparent Liability for Forfeiture against nine consumer electronics manufacturers for violation of the Commission's requirement that digital television receivers be capable of responding to changes in the content advisory rating system.
6	Enforcement	TITLE: Various Retailers, Notices of Apparent Liability for Forfeiture. SUMMARY: The Commission will consider Notices of Apparent Liability for Forfeiture against 14 consumer electronics retailers for violation of the Commission's labeling requirement for television receivers capable of receiving only analog signals.
7	Enforcement	TITLE: Manufacturer, Forfeiture Order and Further Notice of Apparent Liability. SUMMARY: The Commission will consider a Forfeiture Order and Further Notice of Apparent Liability for Forfeiture against a consumer electronics manufacturer for violation of the Commission's rule restricting the importation and interstate shipment of analog-only television receivers and violation of the Commission's rule prohibiting negligent misrepresentation in filings submitted to the Commission.
8	Enforcement	TITLE: Manufacturer, Notice of Apparent Liability for Forfeiture. SUMMARY: The Commission will consider a Notice of Apparent Liability for Forfeiture against an exercise equipment manufacturer for violation of the Commission's rule restricting the importation and interstate shipment of analog-only television receivers.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Make your request as early as possible; please allow at least 5 days' advance notice. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *http://www.fcc.gov/realaudio.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 08–1113 Filed 4–4–08; 12:20 pm]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—03/03/2008			
20080767	Banco de Sabadell, SA	Banco Bilbao Vizcaya Argentaria, SA	Banco Bilbao Vizcaya Argentaria, SA.
20080782	Ares Corporate Opportunities Fund, L.P	Hanger Orthopedic Group, Inc	Hanger Orthopedic Group, Inc.
20080791	Shimano American Corporation	Nautilus, Inc	DashAmerica, Inc.
20080792	Sanmar Holdings Limited	ING Furman Selz Investors III L.P	Matrix Metals LLC.
20080806	Oak Hill Capital Partners III, L.P	Oak Hill Capital Partners II, L.P	Local TV, LLC.

Trans No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—03/04/2008			
20080802	Mason Wells Buyout Fund II, Limited Partnership.	Coating Excellence International, LLC	Coating Excellence International, LLC.
20080810	Dell Inc.	MessageOne Inc	MessageOne Inc.
20080817	Susquehanna Bancshares, Inc	Mr. & Mrs. James W. Stratton	Stratton Holding Company.
TRANSACTIONS GRANTED EARLY TERMINATION—03/05/2008			
20080796	West Corporation	Genesys SA	Genesys SA.
20080808	Alfred Lerner Trust dated June 29, 2001	The Midland Company	M/G Transport Services, Inc.; MGT Services, Inc.; River System Logistics, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/06/2008			
20080581	National Oilwell Varco, Inc	Grant Prideco, Inc	Grant Prideco, Inc.
20080730	NYSE Euronext	The Amex Membership Corporation	American Stock Exchange Holdings, Inc.
20080768	EMC Corporation	Warburg Pincus Private Equity VIII, L.P	PI Corporation.
20080807	Celgene Corporation	Acceleron Pharma, Inc	Acceleron Pharma, Inc.
20080816	Insight Enterprises, Inc	Avnet, Inc	Calence, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—03/07/2008			
20080744	Mitsubishi Materials Corporation	Robertson's Ready Mix, Ltd	Robertson's Ready Mix, Ltd.
20080745	Mitsubishi Materials Corporation	RRM Properties, Ltd	RRM Properties, Ltd.
20080789	OGE Energy Corp	Harbinger Capital Partners Offshore Fund I, Ltd.	Redbud Energy L.P.
20080819	OPG Groep N.V	Fox Paine Capital Fund, L.P	Byram Holdings I, Inc.
20080828	Microsoft Corporation	Danger, Inc	Danger, Inc.
20080829	SYNNEX Corporation	Adam Carroll	New Age Electronics, Inc.
20080830	SYNNEX Corporation	Lee Perlman	New Age Electronics, Inc.
20080835	Royal Bank of Canada	Ferris, Baker Watts, Incorporated	Ferris, Baker Watts, Incorporated.
20080837	Paine & Partners Capital Fund III, L.P	Stab Development S.a.r.l	Stab Erste Holding GmbH.
20080840	Parker Hannifin Corporation	Perseis Private Equity General Partner Inc.	Vansco Electronics General Partner Inc.; Vansco Electronics Holdings Inc.
20080844	JMI Equity Fund VI, L.P	Edge Acquisition, LLC	Catapult Learning, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—03/10/2008			
20080755	Sun Capital Partners V, L.P	Frontier Spinning Mills, Inc	Frontier Spinning Mills, Inc.
20080793	Morgenthaler Partners VIII, L.P	Roto-Die Company, Inc	Roto-Die Company, Inc.
20080834	Hercules Offshore, Inc	Transocean, Inc	GlobalSanteFe Drilling Company.
20080836	Allis-Chalmers Energy Inc	Bronco Drilling Company, Inc	Bronco Drilling Company, Inc.
20080854	Catterton Partners VI, L.P	Restoration Hardware, Inc	Restoration Hardware, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/12/2008			
20080783	Donald E. Graham	Corinthian Colleges, Inc	Corinthian Colleges, Inc.
20080803	Quadrangle Capital Partners II L.P	Dice Holdings, Inc	Dice Holdings, Inc.
20080804	Timothy R. Barakett	Deutsche Borse AG	Deutsche Borse AG.
TRANSACTIONS GRANTED EARLY TERMINATION—03/17/2008			
20080619	BAE Systems plc	MTC Technologies, Inc	MTC Technologies, Inc.
20080858	Third Avenue International Value Fund	Catalyst Paper Corporation	Catalyst Paper Corporation.
20080861	Morgan Stanley	Markit Group Holdings Limited	Markit Group Holdings Limited.
20080864	Citigroup, Inc	Markit Group Holdings Limited	Markit Group Holdings Limited.
20080866	Goldman Sachs & Co	Markit Group Holdings Limited	Markit Group Holdings Limited.
20080871	Hellman & Friedman Capital Partners VI, L.P.	Getty Images, Inc	Getty Images, Inc.
20080883	Citigroup Inc	Legg Mason, Inc	Legg Mason Private Portfolio Group, LLC.
20080889	Close Brothers Private Fund VII L.P	LMS Capital Plc	Energy Cranes International Limited.
TRANSACTIONS GRANTED EARLY TERMINATION—03/18/2008			
20080824	General Electric Company	Whatman plc	Whatman plc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/19/2008			
20080869	Newell Rubbermaid Inc	Technical Concepts Holdings, LLC	Technical Concepts Holdings, LLC.

Trans No.	Acquiring	Acquired	Entities
20080874	Nucor Corporation	Richard I. Galamba	Carrollton Properties, LLC; Fort Scott Properties, LLC; Gala Leasing, Inc.; Galamba Companies, Inc.; Galamba Metals Group, LLC; Galamba Processing Services, LLC; Industrial Property Holdings, Inc.; Iron Horse Transport, LLC; Kansas City Car Crushers, LLC; Kaw River Properties, LLC; KRSI Properties, Inc.; MRL Properties, LLC; NCS Properties, Inc.; RIG Industries, Inc.; Riverview Properties, Inc.; Scrap-All Properties, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—03/20/2008			
20080815	Regency Energy Partners L.P	Cofra Holding AG	Nexus Gas Holdings, LLC.
20080867	Bank of America Corporation	Markit Group Holdings Limited	Markit Group Holdings Limited.
20080873	Audax Private Equity Fund III, L.P	Industrial Dielectrics, Inc	Industrial Dielectrics, Inc.
20080875	AECOM Technology Corporation	Tyco International Ltd.	Earth Tech (Canada) Inc.; Earth Tech Consulting Services (Philippines) Inc.; Earth Tech CZ s.r.o.; Earth Tech EMS Holdings, Inc.; Earth Tech Environment & Infrastructure, Inc.; Earth Tech Hungary Engineering Limited; Earth Tech (Infrastructure) Inc.; Earth Tech Management Consulting Services (Beijing) Co., Ltd.; Earth Tech Mexican Holdings, SA de C.V.; Guangzhou Xilang Wastewater Treatment Co. Ltd.; J. Muller International (USA); Nordic Water GmbH; Nordic Water Holding AB; Nordic Water Products AB; Professional Registrar Organization, Inc.; Qinhuangdao Pacific Water Company Limited; Talisman Partners, Ltd.; TAMS Consultants, Inc.; The Earth Technology Corporation (USA); Tianjin Earth Tech Jieyuan Water Co., Ltd.; Tyco Earth Tech Malaysia Sdn. Bhd.; Tyco Tech Holdings Ireland; Tyco Tech Limited; Water and Power Technologies, Inc.
20080887	Nautic Partners VI, L.P	Norman Carr	First State Container, LLC; Keystone Container, LLC; Maine Container, LLC; N & A Associates, Inc.; Richmond Packaging, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—03/24/2008			
20080841	Kirin Holdings Company, Limited	Kyowa Hakko Co., Ltd	Kyowa Hakko Co., Ltd.
20080865	Merrill Lynch & Co., Inc	Markit Group Holdings Limited	Markit Group Holdings Limited.
20080893	WLR Recovery Fund IV, L.P	Assured Guaranty Ltd	Assured Guaranty Ltd.
20080897	Black Bear Offshore Master Fund, L.P	Amylin Pharmaceuticals, Inc	Amylin Pharmaceuticals, Inc.
20080899	Audax Private Equity Fund III, L.P	AEA Investors Small Business Fund L.P	ITS Holding I Corporation.
20080900	1996 SMR Trust III	H. Wayne Huizenga	County Line South Properties, LLC; Dolphin Center Properties, LLC; Miami Dolphins, Ltd.; South Florida Stadium LLC.
20080912	Reuters Group PLC	2003 TIL Settlement	LawBook Holdings B.V.; LN Holdings Limited; TTC Holdings Limited.
TRANSACTIONS GRANTED EARLY TERMINATION—03/25/2008			
20080906	Thoma Cressey Fund VIII, L.P	Ecoly International, Inc	Ecoly International, Inc.
20080924	HNI Corporation	Furniture Brands International, Inc	Hickory Business Furniture, LLC.
20080933	Fortis SA/NY	RFS Holdings B.V	ABN AMRO Asset Management Holding N.V.
TRANSACTIONS GRANTED EARLY TERMINATION—03/26/2008			
20080820	Verizon Communications Inc	AT&T Inc	AT&T Inc.
20080821	AT&T Inc	Verizon Communications Inc	Cellco Partnership, d/b/a Verizon Wireless.

Trans No.	Acquiring	Acquired	Entities
20080894	Metalico, Inc	Grand Avenue Incorporated	Assad Iron & Metals, Inc.; Brownsville Enterprises, Ltd.; Heidelberg Metals, Inc.; Neville Recycling LLC; Platt Properties LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—03/27/2008			
20080934	Fortis N.V	RFS Holdings B.V	ABN AMRO Asset Management Holding N.V.
TRANSACTIONS GRANTED EARLY TERMINATION—03/28/2008			
20080881	Entergy Corporation	United States Power Fund III, L.P	Quachita Power, LLC.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, or Renee Hallman, Contact Representative; Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E8–7134 Filed 4–7–08; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New; 30-Day Notice]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–5683. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the OS OMB Desk Officer all comments must be faxed to OMB at 202–395–6974.

Proposed Project: Training PhDs: Faculty Views on Their Role and Their Institution's Role to Promote the Development of Responsible Researchers—OMB No. 0990-New-Office of Research Integrity (ORI)

Abstract: Preventing research misconduct and abuse is of paramount importance. The Institute of Medicine (IOM) has issued two reports in the last 10 years addressing this concern and clearly states that mentoring is a key factor in promoting the development of responsible researchers. However, little is actually known about the qualities and activities of effective mentors. The proposed project will focus on collecting descriptive information from faculty about their role as advisor and mentor and how faculty members perform these roles in their daily work with PhD candidates. In addition faculty members will be asked to describe how involved their institution is in promoting training or otherwise supporting research mentoring and advising.

The data will come from a random selection of 10,000 investigators drawn from the 2005 and 2006 National Institutes of Health or National Science Foundation grant recipients who have supervised doctoral students in the last five years and are faculty in two types of institutions: (1) medical schools (within universities or stand alone) and (2) all other universities. We are requesting clearance for a one-time web based survey, which will be conduced over one year.

RESPONDENTS AND BURDEN ESTIMATES FOR THE TRAINING PH.D.S SURVEY

Estimated Annualized Burden Table

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden Hours per response (in hours)	Total burden hours
Faculty Survey Instrument	Faculty who advise a PhD candidate	4,620	1	20/60	1,540

Debbie Kramer,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E8–7249 Filed 4–7–08; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New; 30-Day Notice]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–5683. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the OS OMB Desk Officer all comments must be faxed to OMB at 202–395–6974.

Proposed Project: Evaluation of the ACF Marriage and Family Strengthening Grants for Incarcerated and Reentering Fathers and their Partners—OMB No. 0990–NEW–Assistant Secretary for Planning and Evaluation (ASPE).

Abstract: The Office of Family Assistance within the Administration for Children and Families (ACF) is conducting a demonstration program called Marriage and Family Strengthening Grants for Incarcerated and Re-entering Fathers and their Partners (MFS–IP). These demonstration programs are funded to support activities in the areas of marriage strengthening and responsible fatherhood among incarcerated and recently released fathers, their partners, and children. The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is conducting an evaluation of these demonstration projects. The objective of the evaluation is to help to determine what types of marriage and family strengthening programs work best, what does not work, and what effects these programs may have on fostering healthy marriages, families and children for those involved in the criminal justice system. Information from the evaluation will assist federal, state, and community policymakers and patrons in deciding whether to replicate or redesign identified marriage and family strengthening program models.

The MFS–IP evaluation will assess the effects of marriage and family strengthening activities with incarcerated populations by comparing relationship quality and stability, positive family interactions, family financial well-being, recidivism, and community connectedness between intervention and control groups. Primary data for the evaluation will come from three waves of in-person data collection, including a baseline survey and follow-up surveys at approximately 6 and 12 months post-baseline. Data collection is expected to last 4 years, from the time the first participant is enrolled until the last 12-month follow-up survey is administered.

ESTIMATED ANNUALIZED BURDEN TABLE

Instrument	Number of respondents (annualized)	Number of responses per respondent	Average burden hours per response	Total annualized burden hours
Baseline survey for incarcerated men	444	1	1.5	666
Baseline survey for partners of incarcerated men	444	1	1.5	666
Follow-up survey for incarcerated or formerly incarcerated men	444	2	1.5	1332
Follow-up survey for partners of incarcerated or formerly incarcerated men	444	2	1.5	1332
Total				3996

Debbie Kramer,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E8–7252 Filed 4–7–08; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–240]

Availability of Final Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of seven updated final toxicological profiles of priority hazardous substances. This is the 19th set of toxicological profiles that ATSDR has compiled.

FOR FURTHER INFORMATION CONTACT: Ms. Olga Dawkins, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–32, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (770) 488–3315. Electronic access to these documents is also available at the ATSDR Web site: *http://www.atsdr.cdc.gov/toxpro2.html.*

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9601 *et seq.*) amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain requirements for ATSDR and for the U.S. Environmental Protection Agency (EPA) with regard to hazardous substances most commonly found at facilities on the CERCLA National Priorities List (NPL). One such requirement directs the ATSDR Administrator to prepare toxicological profiles for each substance included on the priority lists of hazardous substances. These lists identify 275 hazardous substances determined by ATSDR and by EPA to pose the most significant potential threat to human health. The availability of the revised list of the 275 priority substances was announced in the **Federal Register** on December 7, 2005 (70 FR 234). For previous versions of the list of substances, see **Federal Register** notices dated April 17, 1987 (52 FR 12866); October 20, 1988 (53 FR 41280); October 26, 1989 (54 FR 43619); October 17, 1990 (55 FR 42067); October 17, 1991 (56 FR 52166); October 28, 1992 (57 FR 48801); February 28, 1994 (59 FR 9486); April 29, 1996 (61 FR 18744; November 17, 1997 (62 FR 61332); October 21, 1999 (64 FR 56792); October 25, 2001 (66 FR 54014) and November 7, 2003 (68 FR 63098).

Notice of the availability of toxicological profile drafts for public review and comment was published in the **Federal Register** on October 25, 2005 (70 FR 61622), with notice of a 90-day public comment period for each profile, starting from the actual release date. Following the close of the comment period, chemical-specific comments were addressed, and, where appropriate, changes were incorporated into each profile. The public comments and other data submitted in response to the **Federal Register** notices carry the docket control number ATSDR–214. This material is available for public inspection at the Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, 4700 Buford Highway, Building 106, Second Floor, Chamblee, Georgia 30341, between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays.

Availability

This notice announces the availability of seven updated final toxicological profiles of priority hazardous substances. This is the 19th set of toxicological profiles that ATSDR has compiled. The following toxicological profiles are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, telephone 1–800–553–6847. There is a charge for these profiles, as determined by NTIS.

Nineteenth Set:

Toxicological profile	NTIS order No.	CAS No.
1. Acrolein (Update)	PB2008–100001	000107–02–8
2. Arsenic (Update)	PB2008–100002	007440–38–2
3. Barium (Update)	PB2008–100003	007440–39–3
4. Benzene (Update)	PB2008–100004	000071–43–2
5. Heptachlor (UPDATE)	PB2008–100005	000076–44–8
Heptachlor Epoxide		001024–57–3
6. Lead (Update)	PB2008–100007	007439–92–1
7. Xylenes (Update)	PB2008–100008	001330–20–7

Dated: April 2, 2003.

Ken Rose,

Director, Office of Policy, Planning and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. E8–7295 Filed 4–7–08; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned committee:

Times and Dates: 11 a.m.–5:30 p.m., April 24, 2008. 8:30 a.m.–1 p.m., April 25, 2008.

Place: NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

Status: This meeting is open to the public; however, visitors must be processed in accordance with established federal policies and procedures. For foreign nationals or non-U.S. citizens, pre-approval is required (please contact Althelia Harris, 301–458–4261, *adw1@cdc.gov* or Virginia Cain, *vcain@cdc.gov* at least 10 days in advance for requirements). All visitors are required to present a valid form of picture identification issued by a state, federal or international government. As required by the Federal Property Management Regulations, Title 41, Code of Federal Regulation, Subpart 101–20.301, all persons entering in or on Federal controlled property and their packages, briefcases, and other containers in their immediate possession are subject to being X-rayed and inspected. Federal law prohibits the knowing possession or the causing to be present of firearms, explosives and other dangerous weapons and illegal substances. The meeting room accommodates approximately 100 people.

Purpose: This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

Matters To Be Discussed: The agenda will include welcome remarks by the Director, NCHS; presentation of the NHANES program; discussion of NCHS data linkage; discussion of upcoming program reviews and an open session for comments from the public.

Requests to make oral presentations should be submitted in writing to the contact person listed below. All requests must contain the name, address, telephone number, and organizational affiliation of the presenter.

Written comments should not exceed five single-spaced typed pages in length and must be received by April 14, 2008.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Virginia S. Cain, PhD, Director of Extramural Research, NCHS/CDC, 3311 Toledo Road, Room 7211, Hyattsville, Maryland 20782, telephone (301) 458–4500, fax (301) 458–4020.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 1, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–7301 Filed 4–7–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control/ Initial Review Group, (NCIPC/IRG)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC announces the following meeting of the aforementioned committee:

Times and Dates: 8 a.m.–8:30 a.m., April 24, 2008 (Open). 8:30 a.m.–5 p.m., April 24, 2008 (closed). 8 a.m.–12 a.m., April 25, 2008 (Closed).

Place: Embassy Suites Atlanta—Buckhead, 3285 Peachtree Road, NE., Atlanta, GA 30305, Telephone (404) 261–7733.

Status: Portions of the meetings will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Section 10(d) of Public Law 92–463.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services, and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focuses on prevention and control.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of cooperative agreement applications submitted in response to Fiscal Year 2008 Requests for Applications related to the following individual research announcement: CE08–003, Research for Preventing Violence and Violence-Related Injury (R01).

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: J. Felix Rogers, PhD, M.P.H., Telephone (770) 488–4334, NCIPC/ERPO, CDC, 4770 Buford Highway, NE., M/S F62, Atlanta, Georgia 30341–3724.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 2, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–7298 Filed 4–7–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control Initial Review Group, (NCIPC/IRG)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following teleconference meeting:

Times and Date: 1 p.m.–1:30 p.m., May 6, 2008 (Open). 1:30 p.m.–5 p.m., May 6, 2008 (Closed).

Place: CDC, Chamblee Campus, Building 106, 4770 Buford Highway, Atlanta, GA 30341, Toll Free: (888) 793–2154, Participant Passcode: 4424802.

Status: Portions of the meetings will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Section 10(d) of Public Law 92–463.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services, and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focuses on prevention and control.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of individual research grant and cooperative agreement applications submitted in response to Fiscal Year 2008 Requests for Applications related to the following individual research announcement: RFA–CE–08–005, Dissertation Grant Awards for Doctoral Candidates for Violence-Related Injury Prevention Research in Minority Communities (R36).

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Jane Suen, Dr.P.H., M.S., Executive Secretary, NCIPC IRG, CDC, 4770 Buford Highway, NE., M/S F–62, Atlanta, Georgia 30341, telephone 770/488–4281.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 2, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–7300 Filed 4–7–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project:

Title: Evaluation of the Community Healthy Marriage Initiative Implementation Study.

OMB No.: 0970–0283.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is conducting a demonstration and evaluation called the Community Healthy Marriage Initiative (CHMI). Demonstration programs have been funded through Child Support Enforcement waivers authorized under section 1115 of the Social Security Act to support healthy marriage, improve child well-being and increase the financial security of children. The objectives of the evaluation are to (1) assess the implementation of community interventions designed to provide marriage education by examining the way the projects operate and by examining child support outcomes among low-income families in the community, and (2) evaluate the community impacts of these interventions on marital stability and satisfaction, child well-being and child support outcomes among low-income families.

The purpose of this information collection is to continue collecting implementation data under the protocols previously approved by the Office of Management and Budget (OMB) (i.e., Control No. 0970–0283). Primary data for the implementation evaluation will come from observations, interviews, focus groups and records. One-on-one and small group interviews

with project staff and marriage education service providers in the community will provide a detailed understanding of the administration and operation of the demonstrations. Focus group discussions will provide insights into participants' perspectives on marriage education and their experiences with the CHMI interventions.

In addition to the implementation information collected under this request, an impact evaluation will be integrated with the implementation study and will assess the effects of healthy marriage initiatives by comparing family and child well-being outcomes in the CHMI communities with similar outcomes in comparison communities that are well-matched to the project sites. Data from the implementation studies will provide the basis for the instrumental variable models of CHMI impacts to help determine direct or indirect exposure to marriage-related services. Baseline data collected under the impact evaluation has been approved by OMB (i.e., Control No. 0970–0322).

Respondents: Lead Project Staff; Service Provider Organization Staff; Key Community, Civic Stakeholders; and Program Participants.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Average number of responses per respondent	Average burden hours per response	Total burden hours
Administrative Interviews	200	2	1	400
Small Group Interviews	25	1	1.6	40
Estimated Total Annual Burden Hours				440

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREinfo collection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 31, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–7137 Filed 4–7–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project

Title: Generic Clearance to Conduct Qualitative Data Collections.

OMB No.: New Collection.

Description: The Office of Planning, Research and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), intends to request approval from the Office of Management and Budget (OMB) for a generic clearance that will allow OPRE to conduct a variety of qualitative data collections. Over the next three years, OPRE anticipates undertaking a variety of new research projects in the fields of cash welfare, employment and self-sufficiency, Head Start, child care, healthy marriage and responsible fatherhood, and child welfare. In order to inform the development of OPRE research, to maintain a research agenda that is rigorous and relevant, and to ensure that research products are as current as possible, OPRE will engage in a variety of qualitative data collections in concert with researchers and practitioners throughout the field. OPRE envisions using a variety of techniques including semi-structured discussions, focus groups, telephone interviews, and in-person observations and site visits, in order to integrate the perspectives of program operators, policy officials and members of the research community.

Following standard OMB requirements, OPRE will submit a change request to OMB individually for every group of data collection activities undertaken under this generic clearance. OPRE will provide OMB with a copy of the individual instruments or questionnaires (if one is used), as well as other materials describing the project.

Respondents: Administrators or staff of State and local agencies or programs in the relevant fields; academic researchers; and policymakers at various levels of government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Semi-Structured Discussion and Information-Gathering Protocol	600	1	.5	300
Estimated Total Annual Burden Hours				300

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 31, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–7139 Filed 4–7–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0172]

Agency Information Collection Activities; Proposed Collection; Comment Request; New Animal Drugs for Investigational Use

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 reporting and recordkeeping requirements for ''New Animal Drugs for Investigational Use.''

DATES: Submit written or electronic comments on the collection of information by June 9, 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: Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

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.

New Animal Drugs for Investigational Use—21 CFR Part 511 (OMB Control Number 0910–0117)—Extension

FDA has authority under the Federal Food, Drug, and Cosmetic Act (the act) to approve new animal drugs. Section 512(j) of the act (21 U.S.C 360b(j)), authorized FDA to issue regulations for the investigational use of new animal drugs. The regulations which set forth conditions for investigational use of new animal drugs are codified under part 511 (21 CFR part 511). If a new animal drug is only for tests in vitro, or testing in laboratory research animals, the person distributing the new animal drug must maintain records showing: (1) The name and post office address of the expert or expert organization to whom the drug is shipped; and (2) the date, quantity, batch or code mark for each shipment for a period of 2 years after such shipment or delivery. Prior to shipping a new animal drug for clinical investigations in animals, a sponsor must submit to FDA a Notice of Claimed Investigational Exemption (NCIE). The NCIE must contain, among other things, the following specific information: (1) The identity of the new animal drug; (2) labeling; (3) a statement of compliance

of any non-clinical laboratory studies with good laboratory practices; (4) the name and address of each clinical investigator; (5) the approximate number of animals to be treated or amount of new animal drug(s) to be shipped; and (6) information regarding the use of edible tissues from investigational animals. Part 511 also requires that records be established and maintained to document the distribution and use of the investigational drug to assure that its use is safe and that the distribution is controlled to prevent potential abuse. The agency uses these required records under its Bio-Research Monitoring Program to monitor the validity of the studies submitted to FDA to support new animal drug approval and to assure that proper use of the drug is maintained by the investigator.

Investigational new animal drugs are used primarily by the pharmaceutical industry, academic institutions, and the government. Investigators may include individuals from these entities as well as research firms and members of the medical professional. Respondents for this collection of information are investigators who use new animal drugs for investigational purposes.

FDA estimates the burden for this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
511.1(b)(4)	134	7.66	1,027	8	8,216
511.1(b)(5)	134	.19	25	140	3,500
511.1(b)(6)	134	.01	2	1	2
511.1(b)(8)(ii)	134	.11	15	20	300
511.1(b)(9)	134	6.7	20	8	160
Total					12,178

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
511.1(a)(3)	134	2.96	400	9	3,600
511.1(b)(3)	134	7.66	1,027	1	1,027
511.1(b)(7)(ii)	134	7.46	1,000	3.5	3,500
511.1(b)(8)(i)	134	7.46	1,000	3.5	3,500
Total					11,627

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates for reporting requirements, record preparation, and maintenance for this collection of information are based on agency communication with industry and agency records. Based on the number of sponsors subject to animal drug user fees, FDA estimates there are 134 respondents. This estimate is used consistently throughout the burden tables and for example, the ''annual frequency per respondent'' was calculated by dividing the total annual responses by the number of respondents. Additional information needed to make final calculations for the total burden estimates in tables 1 and 2 of this document, i.e., the hours per response, the hours per record, the number of NCIEs received, etc., was derived from agency records.

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

Dated: March 31, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–7255 Filed 4–7–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0199] (formerly Docket No. 2006D–0526)

International Conference on Harmonisation; Guidance on E15 Pharmacogenomics Definitions and Sample Coding; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''E15 Definitions for Genomic Biomarkers, Pharmacogenomics, Pharmacogenetics, Genomic Data and Sample Coding Categories.'' The guidance was prepared

under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance contains definitions of key terms in the discipline of pharmacogenomics and pharmacogenetics, namely genomic biomarkers, pharmacogenomics, pharmacogenetics, and genomic data and sample coding categories. In the effort to develop harmonized approaches to drug regulation, it is important to ensure that consistent definitions of terminology are being applied across all constituents of the ICH. The guidance is intended to facilitate the integration of the discipline of pharmacogenomics and pharmacogenetics into global drug development and approval processes.

DATES: Submit written or electronic comments on agency guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. 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.

Regarding the guidance: Felix Frueh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, rm. 4512,Silver Spring, MD 20993–0002, 301–796–1530; or

Raj K. Puri, Center for Biologics Evaluation and Research (HFM–735), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–0471.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance entitled ''E15 Definitions for Genomic Biomarkers, Pharmacogenomics, Pharmacogenetics, Genomic Data and Sample Coding Categories.'' In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of January 8, 2007 (72 FR 793), FDA published a notice announcing the availability of a draft guidance entitled ''E15 Terminology in Pharmacogenomics.'' The notice gave interested persons an opportunity to submit comments by April 9, 2007.

After consideration of the comments received and revisions to the guidance, a final version of the draft guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in October 25, 2006.

The guidance represents an international effort to harmonize pharmacogenomics definitions and sample coding. Inconsistent definitions make it difficult to achieve agreement on parameters for implementation of pharmacogenomics in global pharmaceutical development, and might lead to inconsistent assessments by regulators. The guidance provides definitions of key terms in the discipline of pharmacogenomics and pharmacogenetics, namely genomic biomarkers, pharmacogenomics, pharmacogenetics, and genomic data and sample coding categories. The guidance is intended to facilitate the integration of the discipline of pharmacogenomics and pharmacogenetics into global drug development and approval processes. Timely harmonization of terminology and definitions will create a common foundation for future guidance on pharmacogenomics.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance 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. Comments

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

Please note that on January 15, 2008, the FDA Division of Dockets Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic

comments or submissions will be accepted by FDA through FDMS only.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ohrms/dockets/default.htm*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/publications.htm*.

Dated: March 28, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–7237 Filed 4–7–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Codon Optimized IL–15 and IL–15R–Alpha Genes for Expression in Mammalian Cells

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in U.S. Serial Numbers 60/758,819, filed January 13, 2006 and 60/812,566, filed June 9, 2006; PCT filed (PCT/US2007/000774) on January 12, 2007, entitled ''Codon Optimized IL–15 and IL–15R—Alpha Genes for Expression in Mammalian Cells'' (HHS Ref. E–254–2005/2) to Marine Polymer Technologies, Inc., having a place of business in Danvers, Massachusetts. The patent rights in these inventions have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before April 28, 2008 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Susan Ano, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; E-mail: *anos@od.nih.gov;* Telephone: (301) 435–5515; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: This technology provides for optimized nucleic acids for improved expression of interleukin–15 (IL–15) and IL–15 receptor alpha (IL–15R–alpha) in mammalian cells. IL–15 is a cytokine important for both the innate and adaptive immune systems. Based on its many functions and relative safety in animal models, IL–15 finds use in vaccines, cancer immunotherapeutics, and autoimmune disease and as a vaccine adjuvant. The present technology enhances the production and bioavailability of IL–15 through use of optimized nucleic acid sequences. Native IL–15 coding sequences do not express IL–15 optimally for several reasons, and the optimized sequences of the subject technology overcome these deficiencies. The nucleic acids can be part of expression vectors, which could be utilized either in vitro or in vivo. The expression vectors express IL–15 alone, IL–15R–alpha alone, or both molecules together from a single vector. Further enhanced expression of IL–15 and/or IL–15R–alpha can be achieved through the use of signal peptides or propeptides from heterologous proteins. These nucleic acids can be administered to enhance the immune response of an individual against one or more antigens. Primate studies have shown that co-administration of IL–15 and IL–15R–alpha increased antigen specific cells, cells expressing IL–2, and/or cells expressing IL–2 and IFN–gamma (i.e. multifunctional cells). The present compositions are useful for the increased bioavailability and therefore biological effects of IL–15 after its administration to humans or other mammals.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 20 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the prevention, treatment and/or management of diseases involving IL–15 mediated signaling, comprising cancer, Hepatitis B and C infection, and immunotherapy (excluding Human Immunodeficiency Virus).

The licensed territory will be exclusive worldwide.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 31, 2008.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–7260 Filed 4–7–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Privacy Office

[Docket No. DHS–2008–0031]

Committee Management; Notice of Committee Charter Renewal

AGENCY: Privacy Office; Department of Homeland Security.

ACTION: Committee Management; Notice of Committee Charter Renewal.

SUMMARY: The Secretary of Homeland Security has determined that the renewal of the charter of the Data Privacy and Integrity Advisory Committee is necessary and in the public interest in connection with the Department of Homeland Security's performance of its duties. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Data Privacy and Integrity Advisory Committee.

ADDRESSES: If you desire to submit comments on this action, they must be submitted by June 2, 2008. Comments must be identified by DHS–2008–0031 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: privacycommittee@dhs.gov*. Include the docket number in the subject line of the message.
- *Fax:* 703–235–0442.
- *Mail:* Ken Hunt, Executive Director, 245 Murray Lane, Mail Stop 0550, Washington, DC 20528.
- *Instructions:* All submissions received must include the words ''Department of Homeland Security'' and DHS–2008–0031, the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ken Hunt, Executive Director, 245 Murray Lane, Mail Stop 0550, Washington, DC 20528, 703–235–0780 and 703–235–0442, *privacycommittee@dhs.gov*.

Purpose and Objective: Under the authority of 6 U.S.C. section 451, this charter establishes the Data Privacy and Integrity Advisory Committee, which shall operate in accordance with the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App).

The Committee will provide advice at the request of the Secretary of DHS and the Chief Privacy Officer of DHS on programmatic, policy, operational, administrative, and technological issues within the DHS that relate to personally identifiable information (PII), as well as data integrity and other privacy-related matters.

Duration: The committee's charter is effective March 25, 2008, and expires March 25, 2010.

Responsible DHS Officials: Hugo Teufel III, Chief Privacy Officer and Ken Hunt, Executive Director, 245 Murray Drive, Mail Stop 0550, Washington, DC 20528, *privacycommittee@dhs.gov*, 703–235–0780.

Dated: April 1, 2008.

Hugo Teufel III,

Chief Privacy Officer.

[FR Doc. E8–7277 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination; correction.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border of the United States. The notice of determination was published in the **Federal Register** on April 3, 2008. Due to a publication error, the Project Area description was inadvertently omitted from the April 3 publication. For clarification purposes, this document is a republication of the April 3 document including the omitted Project Area description.

DATES: This Notice is effective on April 8, 2008.

Determination and Waiver

The Department of Homeland Security has a mandate to achieve and maintain operational control of the borders of the United States. Public Law 109–367, 2, 120 Stat. 2638, 8 U.S.C. 1701 note. Congress has provided the Secretary of Homeland Security with a number of authorities necessary to accomplish this mandate. One of these authorities is found at section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, 564, 121 Stat. 2090 (Dec. 26, 2007). In Section 102(a) of the IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In Section 102(b) of the IIRIRA, Congress has called for the installation of fencing, barriers, roads, lighting, cameras, and sensors on not less than 700 miles of the southwest border, including priority miles of fencing that must be completed by December of 2008. Finally, in section 102(c) of the IIRIRA, Congress granted to me the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of the IIRIRA.

I determine that the following area of Hidalgo County, Texas, in the vicinity of the United States border, hereinafter the Project Area, is an area of high illegal entry:

- Starting approximately at the intersection of Military Road and an un-named road (i.e. beginning at the western end of the International Boundary Waters Commission (IBWC) levee in Hidalgo County) and runs east in proximity to the IBWC levee for approximately 4.5 miles.
- Starting approximately at the intersection of Levee Road and 5494 Wing Road and runs east in proximity to the IBWC levee for approximately 1.8 miles.
- Starting approximately 0.2 mile north from the intersection of S. Depot Road and 23rd Street and runs south in proximity to the IBWC levee to the Hidalgo POE and then east in proximity to the new proposed IBWC levee and the existing IBWC levee to approximately South 15th Street for a total length of approximately 4.0 miles.
- Starting adjacent to Levee Road and approximately 0.1 miles east of the intersection of Levee Road and Valley View Road and runs east in proximity to the IBWC levee for approximately 1.0 mile then crosses the Irrigation District Hidalgo County #1 Canal and will tie into the future New Donna POE fence.
- Starting approximately 0.1 mile east of the intersection of County Road 556 and County Road 1554 and runs east in proximity to the IBWC levee for approximately 3.4 miles.
- Starting approximately 0.1 mile east of the Bensten Groves road and runs east in proximity to the IBWC levee to the Progresso POE for approximately 3.4 miles.
- Starting approximately at the Progresso POE and runs east in proximity to the IBWC levee for approximately 2.5 miles.

In order to deter illegal crossings in the Project Area, there is presently a need to construct fixed and mobile barriers and roads in conjunction with improvements to an existing levee system in the vicinity of the border of the United States as a joint effort with Hidalgo County, Texas. In order to ensure the expeditious construction of the barriers and roads that Congress prescribed in the IIRIRA in the Project Area, which is an area of high illegal entry into the United States, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of the IIRIRA as amended. Accordingly, I hereby waive in their entirety, with respect to the construction of roads and fixed and mobile barriers (including, but not limited to, accessing the project area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of fences, roads, supporting elements, drainage, erosion controls, safety features, surveillance, communication, and detection equipment of all types, radar and radio towers, and lighting) in the Project Area, all federal, state, or other laws, regulations and legal requirements of, deriving from, or related to the subject of, the following laws, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1,

1970) (42 U.S.C. 4321 *et seq.*)), the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884) (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)), the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1251 *et seq.*), the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*)), the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Archeological Resources Protection Act (Pub. L. 96–95, 16 U.S.C. 470aa *et seq.*), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), the Noise Control Act (42 U.S.C. 4901 *et seq.*), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*), the Archaeological and Historic Preservation Act (Pub. L. 86–523, 16 U.S.C. 469 *et seq.*), the Antiquities Act (16 U.S.C. 431 *et seq.*), the Historic Sites, Buildings, and Antiquities Act (16 U.S.C. 461 *et seq.*), the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), the Coastal Zone Management Act (Pub. L. 92–583, 16 U.S.C. 1451 *et seq.*), the Federal Land Policy and Management Act (Pub L. 94–579, 43 U.S.C. 1701 *et seq.*), the National Wildlife Refuge System Administration Act (Pub. L. 89–669, 16 U.S.C. 668dd-668ee), the Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 16 U.S.C. 742a, *et seq.*), the Fish and Wildlife Coordination Act (Pub. L. 73–121, 16 U.S.C. 661 *et seq.*), the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Eagle Protection Act (16 U.S.C. 668 *et seq.*), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*), the American Indian Religious Freedom Act (42 U.S.C. 1996), the Religious Freedom Restoration Act (42 U.S.C. 2000bb), and the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6303–05).

I reserve the authority to make further waivers from time to time as I may determine to be necessary to accomplish the provisions of section 102 of the IIRIRA, as amended.

Michael Chertoff,

Secretary.

[FR Doc. E8–7450 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination; correction.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border of the United States. The notice of determination was published in the **Federal Register** on April 3, 2008. Due to a publication error, the description of the Project Areas was inadvertently omitted from the April 3 publication. For clarification purposes, this document is a republication of the April 3 document including the omitted description of the Project Areas.

DATES: This Notice is effective on April 8, 2008.

Determination and Waiver

I have a mandate to achieve and maintain operational control of the borders of the United States. Public Law 109–367, 2, 120 Stat. 2638, 8 U.S.C. 1701 note. Congress has provided me with a number of authorities necessary to accomplish this mandate. One of these authorities is found at section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, 564, 121 Stat. 2090 (Dec. 26, 2007). In Section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In Section 102(b) of IIRIRA, Congress has called for the installation of fencing, barriers, roads, lighting, cameras, and sensors on not less than 700 miles of the southwest border, including priority miles of fencing that must be completed by December 2008. Finally, in section 102(c) of the IIRIRA, Congress granted to me the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

I determine that the following areas in the vicinity of the United States border, located in the States of California, Arizona, New Mexico, and Texas are areas of high illegal entry (collectively ''Project Areas''):

California

- Starting approximately 1.5 mile east of Border Monument (BM) 251 and ends approximately at BM 250.
- Starting approximately 1.1 miles west of BM 245 and runs east for approximately 0.8 mile.
- Starting approximately 0.2 mile west of BM 243 and runs east along the border for approximately 0.5 mile.
- Starting approximately 0.7 mile east of BM 243 and runs east along the border for approximately 0.9 mile.
- Starting approximately 1.0 mile east of BM 243 and runs east along the border for approximately 0.9 mile.
- Starting approximately 0.7 mile west of BM 242 and stops approximately 0.4 mile west of BM 242.
- Starting approximately 0.8 mile east of BM 242 and runs east along the border for approximately 1.1 miles.
- Starting approximately 0.4 mile east of BM 239 and runs east for approximately 0.4 mile along the border.
- Starting approximately 1.2 miles east of BM 239 and runs east for approximately 0.2 mile along the border.
- Starting approximately 0.5 mile west of BM 235 and runs east along the border for approximately 1.1 miles.
- Starting approximately 0.8 mile east of BM 235 and runs east along the border for approximately 0.1 mile.
- Starting approximately 0.6 mile east of BM 234 and runs east for approximately 1.7 miles along the border.
- Starting approximately 0.4 mile east of BM 233 and runs east for approximately 2.1 miles along the border.
- Starting approximately 0.05 mile west of BM 232 and runs east for approximately 0.1 mile along the border.

• Starting approximately 0.2 mile east of BM 232 and runs east for approximately 1.5 miles along the border.

• Starting 0.6 mile east of Border Monument 229 heading east along the border for approximately 11.3 miles to BM 225.

• Starting approximately 0.1 mile east of BM 224 and runs east along the border for approximately 2.5 miles.

• Starting approximately 2.3 miles east of BM 220 and runs east along the border to BM 207.

Arizona

• Starting approximately 1.0 mile south of BM 206 and runs south along the Colorado River for approximately 13.3 miles.

• Starting approximately 0.1 mile north of County 18th Street running south along the border for approximately 3.8 miles.

• Starting at the Eastern edge of BMGR and runs east along the border to approximately 1.3 miles west of BM 174.

• Starting approximately 0.5 mile west of BM 168 and runs east along the border for approximately 5.3 miles.

• Starting approximately 1 mile east of BM 160 and runs east for approximately 1.6 miles.

• Starting approximately 1.3 miles east of BM 159 and runs east along the border to approximately 0.3 mile east of BM 140.

• Starting approximately 2.2 miles west of BM 138 and runs east along the border for approximately 2.5 miles.

• Starting approximately 0.2 miles east of BM 136 and runs east along the border to approximately 0.2 mile west of BM 102.

• Starting approximately 3 miles west of BM 99 and runs east along the border approximately 6.5 miles.

• Starting approximately at BM 97 and runs east along the border approximately 6.9 miles.

• Starting approximately at BM 91 and runs east along the border to approximately 0.7 miles east of BM 89.

• Starting approximately 1.7 miles west of BM 86 and runs east along the border to approximately 0.7 mile west of BM 86.

• Starting approximately 0.2 mile west of BM 83 and runs east along the border to approximately 0.2 mile east of BM 73.

New Mexico

• Starting approximately 0.8 mile west of BM 69 and runs east along the border to approximately 1.5 miles west of BM 65.

• Starting approximately 2.3 miles east of BM 65 and runs east along the border for approximately 6.0 miles.

• Starting approximately 0.5 mile east of BM 61 and runs east along the border until approximately 1.0 mile west of BM 59.

• Starting approximately 0.1 miles east of BM 39 and runs east along the border to approximately 0.3 mile east of BM 33.

• Starting approximately 0.25 mile east of BM 31 and runs east along the border for approximately 14.2 miles.

• Starting approximately at BM 22 and runs east along the border to approximately 1.0 mile west BM 16.

• Starting at approximately 1.0 mile west of BM 16 and runs east along the border to approximately BM 3.

Texas

• Starting approximately 0.4 miles southeast of BM 1 and runs southeast along the border for approximately 3.0 miles.

• Starting approximately 1 Mi E of the intersection of Interstate 54 and Border Highway and runs southeast approximately 57 miles in proximity to the IBWC levee to 3.7 miles east of the Ft Hancock POE.

• Starting approximately 1.6 miles west of the intersection of Esperanza and Quitman Pass Roads and runs along the IBWC levee east for approximately 4.6 miles.

• Starting at the Presidio POE and runs west along the border to approximately 3.2 miles west of the POE.

• Starting at the Presidio POE and runs east along the border to approximately 3.4 miles east of the POE.

• Starting approximately 1.8 miles west of Del Rio POE and runs east along the border for approximately 2.5 miles.

• Starting approximately 1.3 Mi north of the Eagle Pass POE and runs south approximately 0.8 miles south of the POE.

• Starting approximately 2.1 miles west of Roma POE and runs east approximately 1.8 miles east of the Roma POE.

• Starting approximately 3.5 miles west of Rio Grande City POE and runs east in proximity to the Rio Grande river for approximately 9 miles.

• Starting approximately 0.9 miles west of County Road 41 and runs east approximately 1.2 miles and then north for approximately 0.8 miles.

• Starting approximately 0.5 mile west of the end of River Dr and runs east in proximity to the IBWC levee for approximately 2.5 miles.

• Starting approximately 0.6 miles east of the intersection of Benson Rd and Cannon Rd and runs east in proximity to the IBWC levee for approximately 1 mile.

• Starting at the Los Indios POE and runs west in proximity to the IBWC levee for approximately 1.7 miles.

• Starting at the Los Indios POE and runs east in proximity to the IBWC levee for approximately 3.6 miles.

• Starting approximately 0.5 mile west of Main St and J Padilla St intersection and runs east in proximity to the IBWC levee for approximately 2.0 miles.

• Starting approximately 1.2 miles west of the Intersection of U.S. HWY 281 and Los Ranchitos Rd and runs east in proximity to the IBWC levee for approximately 2.4 miles.

• Starting approx 0.5 miles southwest of the intersection of U.S. 281 and San Pedro Rd and runs east in proximity to the IBWC levee for approximately 1.8 miles.

• Starting approximately 0.1 miles southwest of the Intersection of Villanueva St and Torres Rd and runs east in proximity to the IBWC levee for approximately 3.6 miles.

• Starting approximately south of Palm Blvd and runs east in proximity to the City of Brownsville's levee to approximately the Gateway-Brownsville POE where it continues south and then east in proximity to the IBWC levee for a total length of approximately 3.5 miles.

• Starting at the North Eastern Edge of Ft Brown Golf Course and runs east in proximity to the IBWC levee for approximately 1 mile.

• Starting approximately 0.3 miles east of Los Tomates-Brownsville POE and runs east and then north in proximity to the IBWC levee for approximately 13 miles.

In order to deter illegal crossings in the Project Areas, there is presently a need to construct fixed and mobile barriers (such as fencing, vehicle barriers, towers, sensors, cameras, and other surveillance, communication, and detection equipment) and roads in the vicinity of the border of the United States. In order to ensure the expeditious construction of the barriers and roads that Congress prescribed in the IIRIRA in the Project Areas, which are areas of high illegal entry into the United States, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of the IIRIRA as amended.

Accordingly, I hereby waive in their entirety, with respect to the construction of roads and fixed and mobile barriers (including, but not limited to, accessing the project area, creating and using staging areas, the

conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of fences, roads, supporting elements, drainage, erosion controls, safety features, surveillance, communication, and detection equipment of all types, radar and radio towers, and lighting) in the Project Areas, all federal, state, or other laws, regulations and legal requirements of, deriving from, or related to the subject of, the following laws, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)), the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)), the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1251 *et seq.*)), the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*)), the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Archeological Resources Protection Act (Pub. L. 96–95, 16 U.S.C. 470aa *et seq.*), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), the Noise Control Act (42 U.S.C. 4901 *et seq.*), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*), the Archaeological and Historic Preservation Act (Pub. L. 86–523, 16 U.S.C. 469 *et seq.*), the Antiquities Act (16 U.S.C. 431 *et seq.*), the Historic Sites, Buildings, and Antiquities Act (16 U.S.C. 461 *et seq.*), the Wild and Scenic Rivers Act (Pub. L. 90–542, 16 U.S.C. 1281 *et seq.*), the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), the Coastal Zone Management Act (Pub. L. 92–583, 16 U.S.C. 1451 *et seq.*), the Wilderness Act (Pub. L. 88–577, 16 U.S.C. 1131 *et seq.*), the Federal Land Policy and Management Act (Pub L. 94–579, 43 U.S.C. 1701 *et seq.*), the National Wildlife Refuge System Administration Act (Pub. L. 89–669, 16 U.S.C. 668dd–668ee), the Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 16 U.S.C. 742a, *et seq.*), the Fish and Wildlife Coordination Act (Pub. L. 73–121, 16 U.S.C. 661 *et seq.*), the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Otay Mountain Wilderness Act of 1999 (Pub. L. 106–145), Sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103–433), 50 Stat. 1827, the National Park Service Organic Act (Pub. L. 64–235, 16 U.S.C. 1, 2–4), the National Park Service General Authorities Act (Pub. L. 91–383, 16 U.S.C. 1a–1 *et seq.*), Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Pub. L. 95–625), Sections 301(a)–(f) of the Arizona Desert Wilderness Act (Pub. L. 101–628), the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Eagle Protection Act (16 U.S.C. 668 *et seq.*), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*), the American Indian Religious Freedom Act (42 U.S.C. 1996), the Religious Freedom Restoration Act (42 U.S.C. 2000bb), the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*), and the Multiple Use and Sustained Yield Act of 1960 (16 U.S.C. 528–531).

This waiver does not supersede, supplement, or in any way modify the previous waivers published in the **Federal Register** on September 22, 2005 (70 FR 55622), January 19, 2007 (72 FR 2535), and October 26, 2007 (72 FR 60870).

I reserve the authority to make further waivers from time to time as I may determine to be necessary to accomplish the provisions of section 102 of the IIRIRA, as amended.

Michael Chertoff,

Secretary.

[FR Doc. E8–7451 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0202]

Information Collection Request to Office of Management and Budget; OMB Control Numbers: 1625–0044, 1625–0045, and 1625–0060

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) and Analyses to the Office of Management and Budget (OMB) requesting an extension of their approval for the following collections of information: (1) 1625–0044, Outer Continental Shelf Activities—Title 33 CFR Subchapter N; (2) 1625–0045, Adequacy Certification for Reception Facilities and Advance Notice—33 CFR part 158; and (3) 1625–0060, Vapor Control Systems for Facilities and Tank Vessels. Before submitting these ICRs to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 9, 2008.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2008–0202], please submit them by only one of the following means:

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

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

(3) *Hand delivery:* DMF between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

The Coast Guard invites comments on whether this information collection request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of

collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–0202], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Enter the docket number [USCG–2008–0202] in the Search box, and click, ''Go>>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or by visiting *http://DocketsInfo.dot.gov.*

Information Collection Request

1. *Title:* Outer Continental Shelf (OCS) Activities—Title 33 CFR Subchapter N.

OMB Control Number: 1625–0044.

Summary: The Outer Continental Shelf Lands Act, as amended, authorizes the Coast Guard to promulgate and enforce regulations promoting the safety of life and property on OCS facilities. These regulations are located in 33 CFR chapter I subchapter N.

Need: The information is needed to ensure compliance with safety regulations related to OCS activities. The regulations contain reporting and recordkeeping requirements for annual inspections of fixed OCS facilities, requirements for employee citizenship records, station bills, and emergency evacuation plans.

Forms: CG–5432.

Respondents: Operators of facilities and vessels engaged in activities on the OCS.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 5,867 hours to 6,233 hours a year.

2. *Title:* Adequacy Certification for Reception Facilities and Advance Notice—33 CFR Part 158.

OMB Control Number: 1625–0045.

Summary: This information collection is needed to evaluate the adequacy of reception facilities prior to issuance of a Certificate of Adequacy. Information for the advance notice ensures effective management of reception facilities and reduces the burden to facilities and ships.

Need: Section 1905 of 33 U.S.C. gives the Coast Guard the authority to certify the adequacy of reception facilities in ports. Reception facilities are needed to receive waste from ships which may not be discharged at sea. Under these regulations in 33 CFR part 158 there are discharge limitations for oil/oily waste, noxious liquid substances, plastics, and other garbage.

Forms: CG–5401, CG–5401A, CG–5401B, CG–5401C.

Respondents: Owners and operators of reception facilities, and owners/operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 1,058 hours to 1,529 hours a year.

3. *Title:* Vapor Control Systems for Facilities and Tank Vessels.

OMB Control Number: 1625–0060.

Summary: The information is needed to ensure compliance with U.S. regulations for the design of facility and tank vessel vapor control systems (VCS). The information is also needed to determine the qualifications of a certifying entity.

Need: Section 1225 of 33 U.S.C. and 46 U.S.C. 3703 authorize the Coast Guard to establish regulations to promote the safety of life and property of facilities and vessels. Subpart E of 33 CFR part 154 contains Coast Guard regulations for VCS and certifying entities.

Forms: None.

Respondents: Respondents are owners/operators of facilities, tank vessels, and certifying entities.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 1,145 hours to 2,724 hours a year.

Dated: March 28, 2008.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–7246 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0209]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0018

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) and Analysis to the Office of Management and Budget (OMB) requesting an extension of its approval for the following collection of information: 1625–0018, Official Logbook. Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 9, 2008.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2008–0209] please use only one of the following means:

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

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

(3) *Hand delivery:* DMF between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

The Coast Guard invites comments on whether this information collection request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–0209], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Enter the docket number [USCG–2008–0209] in the Search box, and click, ''Go>>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or by visiting *http://DocketsInfo.dot.gov.*

Information Collection Request

Title: Official Logbook.

OMB Control Number: 1625–0018.

Summary: The Official Logbook contains information on the vessel's crew, drills, and operations conducted during the voyage. Official Logbook entries identify all particulars of the nature of the voyage, including the name of the ship, official number, port of registry, tonnage, names, merchant mariner document numbers of the master and crew, and class of ship. In addition, it also contains entries for the vessel's drafts, maintenance of watertight integrity of the ship, drills/inspections, crew list with report of character, a summary of laws applicable to logbooks, and miscellaneous entries.

Need: Sections 11301 through 11303 of Title 46 of the United States Code (U.S.C.) require most merchant vessels to have and maintain an Official Logbook, or face penalties. See Coast Guard regulations 46 CFR 35.07–5, 78.37–3, 97.35–3, 109.431, 131.610, 196.35–3 and 197.480 as examples that reflect the requirements for various types of vessels or facilities. The Official Logbook contains information about the vessel, voyage, and crew. Lack of these particulars would make it difficult for a seaman to verify vessel employment and wages, and for the Coast Guard to verify compliance with laws and regulations concerning vessel operations and safety procedures. The Official Logbook serves as an official record of recordable events transpiring at sea such as births, deaths, marriages, disciplinary actions, etc. Absent the Official Log, there would no official civil record of these events. The courts accept log entries as proof that the logged event occurred. If this information were not collected, the Coast Guard's Commercial Vessel Safety Program would suffer, as there would be no official record of U.S. merchant vessel voyages. Similarly, those seeking to prove that a logable event occurred would not have any record available.

Forms: Official Logbook, CG–706B.

Respondents: Federal agency maritime casualty investigators, Coast Guard inspectors, and shipping companies.

Frequency: On occasion.

Burden Estimate: The estimated burden remains 1,750 hours a year.

Dated: March 28, 2008.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–7247 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0178]

Information Collection Request to Office of Management and Budget; OMB Control Numbers: 1625–0032, 1625–0037, 1625–0041, and 1625–0042.

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Requests (ICRs) and Analyses to the Office of Management and Budget (OMB) requesting an extension of their approval for the following collections of information: (1) 1625–0032, Vessel Inspection Related Forms and Reporting Requirements Under Title 46 U.S. Code; (2) 1625–0037, Certificates of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, and Shipping Papers; (3) 1625–0041, Various International Agreement Pollution Prevention Certificates and Documents, and Equivalency Certificates; and (4) 1625–0042, Requirements for Lightering of Oil and Hazardous Material Cargoes. Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 9, 2008.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2008–0178], please submit them by only one of the following means:

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

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

(3) *Hand delivery:* DMF between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

The Coast Guard invites comments on whether this information collection request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–0178], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Enter the docket number [USCG–2008–0178] in the Search box, and click, ''Go>>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or by visiting *http://DocketsInfo.dot.gov.*

Information Collection Request

1. *Title:* Vessel Inspection Related Forms and Reporting Requirements Under Title 46 U.S. Code.

OMB Control Number: 1625–0032.

Summary: This collection of information requires owners, operators, agents or masters of certain inspected vessels to obtain and/or post various forms as part of the Coast Guard's Commercial Vessel Safety Program.

Need: The Coast Guard's Commercial Vessel Safety Program regulations are found in 46 CFR, including parts 2, 26, 31, 71, 91, 107, 115, 126, 169, 176, and 189; as authorized in Title 46 U.S.C. A number of reporting and recordkeeping requirements are contained therein.

Forms: CG–841, CG–854, CG–948, CG–949, CG–950, CG–950A, CG–2832.

Respondents: Owners, operators, agents, and masters of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 1,471 hours to 1,686 hours a year.

2. Title: Certificates of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, and Shipping Papers.

OMB Control Number: 1625–0037.

Summary: This information is solely needed to enable the Coast Guard to fulfill its responsibilities for maritime safety under Title 46, U.S. Code. The affected public includes some owners or operators of large merchant vessels and all foreign-flag tankers calling at U.S. ports.

Need: Title 46 U.S.C. 3301, 3305, 3306, 3702, 3703, 3711, and 3714 authorize the Coast Guard to establish marine safety regulations to protect life, property, and the environment. These regulations are prescribed in Title 46 CFR.

The requirements for reporting Boiler/Pressure Valve Repairs, maintaining Cargo Gear Records, Shipping Papers, and issuance of Certificates of Compliance (CG–3585) provide the marine inspector with available information as to the condition of a vessel and its equipment. It also contains information on the vessel owner and lists the type and amount of cargo that has been or is being transported. These requirements promote the safety of life at sea and protection of the marine environment.

Forms: CG–3585.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 13,577 hours to 17,294 hours a year.

3. Title: Various International Agreement Pollution Prevention Certificates and Documents, and Equivalency Certificates.

OMB Control Number: 1625–0041.

Summary: Required by the adoption of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), these certificates and documents are evidence of compliance with this convention for U.S. vessels on international voyages. Without the proper certificates or documents, a U.S. vessel could be detained in a foreign port.

Need: Compliance with MARPOL 73/78 aids in the prevention of pollution from ships.

Forms: CG–5352, CG–5352A, CG–5352B, CG–6047, CG–6056, CG–6056A, CG–6057.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 6,874 hours to 2,067 hours a year.

4. Title: Requirements for Lightering of Oil and Hazardous Material Cargoes.

OMB Control Number: 1625–0042.

Summary: The information for this report allows the U.S. Coast Guard to provide timely response to an emergency and minimize the environmental damage from an oil or hazardous material spill. Further, it also allows the Coast Guard to control the location and procedures for lightering activities.

Need: Section 3703 of Title 46 U.S.C. authorizes the Coast Guard to establish lightering regulations. Title 33 CFR 156.200 to 156.330 prescribes the regulations, including pre-arrival notice, reporting of incidents, and operating conditions.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 324 hours to 215 hours a year.

Dated: March 28, 2008.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–7264 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0204]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0015

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) and Analysis to the Office of Management and Budget (OMB) requesting an extension of its approval for the following collection of information: 1625–0015, Bridge Permit Application Guide (BPAG). Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 9, 2008.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2008–0204], please use only one of the following means:

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

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

(3) *Hand delivery:* To DMF between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters (Attn: Mr. Arthur Requina), 2100 2nd Street SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on this notice or the ICR. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

The Coast Guard invites comments on whether this information collection request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–0204], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic

means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Enter the docket number for this notice [USCG–2008–0204] in the Search box, and click ''Go >>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or by visiting *http://DocketsInfo.dot.gov.*

Information Collection Request

Title: Bridge Permit Application Guide (BPAG).

OMB Control Number: 1625–0015.

Summary: The collection of information is a request for a bridge permit submitted as an application for approval by the Coast Guard of any proposed bridge project. A letter of application must be submitted along with letter-size drawings (plans) and maps showing the proposed project and its location.

Need: Sections 401, 491, and 525 of 33 U.S.C. authorize the Coast Guard to approve plans and locations for all bridges and causeways that go over navigable waters of the United States. Bridge permit application regulations are contained in 33 CFR 115.50.

Respondents: The public and private owners of bridges over navigable waters of the United States.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 2,240 to 3,315 hours a year.

Dated: March 28, 2008.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–7266 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2008–0122]

National Boating Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the National Boating Safety Advisory Council (NBSAC). NBSAC advises the Coast Guard on matters related to recreational boating safety.

DATES: Application forms should reach us on or before June 27, 2008.

ADDRESSES: You may request an application form by writing to Commandant, Boating Safety Division (CG–54221), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; by calling 202–372–1062; or by faxing 202–372–1932. Send your application in written form to the above street address. This notice and the application form are available on the Internet at: *http://www.uscgboating.org/nbsac/nbsac.htm.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, Executive Secretary of NBSAC, telephone 202–372–1062, fax 202–372–1932, or e-mail: *jeffrey.a.ludwig@uscg.mil.*

SUPPLEMENTARY INFORMATION: The National Boating Safety Advisory Council (NBSAC) is a Federal advisory committee under 5 U.S.C. App. (Pub. L. 92–463). It advises the Coast Guard regarding regulations and other major boating safety matters. NBSAC's 21 members are drawn equally from the following three sectors of the boating community: State officials responsible for State boating safety programs, recreational boat and associated equipment manufacturers, and national recreational boating organizations and the general public. Members are appointed by the Secretary of the Department of Homeland Security.

NBSAC normally meets twice each year at a location selected by the Coast Guard. When attending meetings of the Council, members are provided travel expenses and per diem.

We will consider applications received in response to this notice for the following seven positions that expire or become vacant in December 2008: three representatives of State officials responsible for State boating safety programs, two representatives of recreational boat and associated equipment manufacturers, and two representatives of the general public or national recreational boating organizations.

Applicants are considered for membership on the basis of their particular expertise, knowledge, and experience in recreational boating safety. Prior applicants should submit an updated application to ensure consideration for the vacancies announced in this notice. Each member serves for a term of up to 3 years. Members may serve consecutive terms. In support of the policy of the U. S. Coast Guard on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected as a non-representative member, or as a member who represents the general public, you will be appointed and serve as a special Government employee (SGE) as defined in section 202(a) of title 18, United States Code. As a candidate for appointment as a SGE, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). A completed OGE Form 450 is not releasable to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Only the Designated Agency Ethics Official or the DAEO's designate may release a Confidential Financial Disclosure Report.

Dated: March 26, 2008.

J.A. Watson,

Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

[FR Doc. E8–7387 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2008–0216]

Merchant Marine Personnel Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Merchant Marine Personnel Advisory Committee (MERPAC). This Committee

advises the Coast Guard on matters related to the training, qualification, licensing, certification, and fitness of seamen serving in the U.S. merchant marine.

DATES: Completed application forms should reach us on or before June 15, 2008.

ADDRESSES: You may request an application form by writing to Mr. Mark Gould, Assistant to the Designated Federal Officer (DFO) for MERPAC, at Commandant (CG–5221), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001. Please submit applications to the same address. Also, a copy of the application form, as well as this notice, is available in our online docket, USCG–2008–0216, at *http://www.regulations.gov*. Send your completed application to the Assistant DFO at the street address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gould, Assistant to DFO of MERPAC; telephone 202–372–1409 or e-mail *mark.c.gould@uscg.mil*.

SUPPLEMENTARY INFORMATION: MERPAC (''Committee'') is a Federal advisory committee established by authority of the Federal Advisory Committee Act under 5 U.S.C. App. (Pub. L. 92–463). MERPAC advises the Assistant Commandant for Prevention on matters of concern to seamen serving in our merchant marine, such as implementation of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended.

MERPAC normally meets twice a year, once at or near Coast Guard Headquarters, Washington, DC, and once elsewhere in the country. It may also meet for extraordinary purposes. Its subcommittees and working groups may also meet to consider specific tasks as required.

We will consider applications for five positions that expire or become vacant on January 31, 2009. To be eligible, you should have experience in the following areas of expertise: Shipping companies employed in ship operation management; marine training institutions other than state or federal maritime academies; licensed engineering officer; licensed deck officer, preferably with an inland or river endorsement, and who represents a labor point of view; and one person who represents the general public. Each member serves for a term of three years. Members may serve consecutive terms if re-appointed. Members serve without compensation from the Federal Government; however, they do receive travel reimbursement and per diem.

In support of the policy of the Coast Guard on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected as a member who represents the general public, you will be appointed and serve as a special Government employee (SGE) as defined in section 202(a) of title 18, United States Code. As a candidate for appointment as a SGE, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). A completed OGE Form 450 is not releasable to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Only the Designated Agency Ethics Official or the DAEO's designate may release a Confidential Financial Disclosure Report.

If you are interested in applying to become a member of the Committee, send a completed application to Mr. Mark Gould, Assistant to the DFO of MERPAC, at the address above. Send the application in time for it to be received by the DFO on or before June 15, 2008.

A copy of the application form is available in the docket for this notice. To visit our online docket, go to *http://www.regulations.gov*, enter the docket number for this notice (USCG–2008–0216) in the Search box, and click ''Go.''

Dated: March 27, 2008.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. E8–7290 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: National Interest Waivers; Supplemental Evidence to I–140 and I–485; OMB Control No. 1615–0063.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on February 1, 2008, at 73 FR 6195, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 8, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS) and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0063. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* National Interest Waivers; Supplemental Evidence to I–140 and I–485.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Agency Form Number; File No. OMB–22. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. The supplemental documentation will be used by the U.S. Citizenship and Immigration Services to determine eligibility for national interest waiver requests and to finalize the request for adjustment to lawful permanent resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,000 responses, two responses per respondent, at one (1) hour per response.

An estimate of the total public burden (in hours) associated with the collection: 16,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: April 3, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–7341 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form AR–11, Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection under Review: Form AR–11, Alien's Change of Address Card; OMB Control No. 1615–0007.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 9, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by email, add the OMB Control Number 1615–0007 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Alien's Change of Address Card.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring this collection:* Form AR–11. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form is used by aliens to submit their change of address to the USCIS within 10 days from the date of change.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 720,000 responses at .083 hours (5 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 59,760 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit: *http://www.regulations.gov/search/index.jsp.*

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: April 3, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–7342 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Blackstone River Valley National Heritage Corridor Commission: Notice of Meeting

Notice is hereby given in accordance with section 552b of Title 5, United States Code, that a meeting of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission will be held on Friday, May 16, 2008.

The Commission was established pursuant to Public Law 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene on May 16, 2008 at 5 p.m. at the River Bend Farm, Blackstone River and Canal Heritage State Park, 287 Oak Street, Uxbridge, MA.

1. Approval of Minutes.
2. Chairman's Report.
3. Executive Director's Report.
4. Financial Budget.
5. Public Input.

It is anticipated that about twenty-five people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission

or file written statements. Such requests should be made prior to the meeting to: Jan H. Reitsma, Executive Director, John H. Chafee, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762–0250.

Further information concerning this meeting may be obtained from Jan H. Reitsma, Executive Director of the Commission at the aforementioned address.

Jan H. Reitsma,

Executive Director, BRVNHCC.

[FR Doc. 08–1111 Filed 4–4–08; 10:22 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, Amendment of an Existing System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed Amendment of an Existing System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary of the Department of the Interior is issuing public notice of its intent to amend an existing Privacy Act system of records notice, Interior, DOI–18, ''Discrimination Complaints.'' The revisions will update the system name, addresses of the system locations and system managers, the categories of individuals covered by the system statement, the routine uses of the records, and the storage, retrievability, and safeguards statements.

DATE: Comments must be received by May 19, 2008.

FOR FURTHER INFORMATION CONTACT: Any persons interested in commenting on this proposed amendment may do so by submitting comments in writing to Ms. Sue Ellen Sloca, Privacy Act Officer, Office of the Secretary, Department of the Interior, 1951 Constitution Avenue NW., MS 116 SIB, Washington, DC 20240 or by e-mail to *sue_ellen_sloca@nbc.gov*.

SUPPLEMENTARY INFORMATION: Interior, DOI–18 is being amended to more accurately describe the Department-wide scope of the system of records; to add sexual orientation and status as a parent to the list of discrimination factors in the categories of individuals covered by the system statement; to update the storage, retrievability and safeguards statements to reflect changes that have occurred since the system notice was last published; to update the list of routine uses of records maintained in the system to disclose records to the following entities for the following purposes: to other federal agencies to reconcile or reconstruct data files, to governmental organizations when relevant to the hiring, etc., of an employee or contractor or to provide information in response to a court order, to the National Archives and Records Administration to conduct records management inspections, to an expert, consultant or contractor to perform services requiring access to the records, to individuals involved in responding to a breach of Federal data, to the Office of Management and Budget in connection with legislative affairs as mandated by OMB Circular A–19, to the Treasury Department to recover debts owed to the Government, and to the news media when the disclosure is compatible with the purpose for which the records were compiled; to update the addresses of the system locations and system managers; and to change the name of the system from Interior, DOI–18, ''Discrimination Complaints'' to Interior, DOI–18, ''Civil Rights Complaints and Compliance Review Files.'' These amendments will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Dated: April 1, 2008.

Sharon D. Eller,

Director, Office of Civil Rights.

INTERIOR/DOI–18

SYSTEM NAME:

Interior, DOI–18, ''Civil Rights Complaints and Compliance Review Files''.

SYSTEM LOCATION:

(1) Office of Civil Rights, 1849 C Street, NW., Mail Stop 5230 MIB, Washington, DC 20240.

(2) Bureau of Land Management, Equal Employment Opportunity Group, 1120 20th Street, NW., 3rd Floor, Washington, DC 20036.

(3) Bureau of Reclamation, Diversity and Equal Opportunity, P.O. Box 25007, D–4700, Denver, Colorado 80225–0007.

(4) U.S. Geological Survey, Office of Equal Opportunity, 12201 Sunrise Valley Drive, 602 National Center, Reston, Virginia 22092.

(5) National Park Service, Equal Employment Opportunity, 1201 I Street, NW., Org Code 2652, Washington, DC 20005.

(6) U.S. Fish and Wildlife Service, Office of Diversity and Civil Rights, 4501 N. Fairfax Drive, Diversity and Civil Rights Office (2nd Floor) and the Division of Federal Assistance (4th Floor), Arlington, Virginia 22203.

(7) Minerals Management Service, Equal Employment and Development Opportunity, 381 Elden Street, MS 2900, Herndon, Virginia 20170.

(8) Office of Surface Mining Reclamation and Enforcement, Office for Equal Opportunity, 1951 Constitution Avenue NW., Room 138–SIB, Washington, DC 20240.

(9) Bureau of Indian Affairs, Equal Employment Opportunity Programs, 2051 Mercator Drive, Reston, Virginia 20191.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who claim to have been discriminated against on the basis of race, color, sex, religion, national origin, disability, age, status as a parent, and sexual orientation in violation of various statutes and regulations including Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d and 42 U.S.C. 2000e, *et seq*); Section 501, Section 504 and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, *et seq*) and its implementing regulations; the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 794, *et seq*) and its implementing regulations; the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621, *et seq*); Title IX of the Education Amendments of 1972 (Pub. L. 92–318); Section 403 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93–153.87 Stat. 576); the Americans with Disabilities Act of 1990 (Pub. L. 101–336); the Age Discrimination Act of 1975 (29 U.S.C. 621); the Architectural Barriers Act of 1968 (Pub. L. 90–480); the Civil Rights Restoration Act of 1987 (Pub. L. 100–259); the Civil Rights Act of 1991 (Pub. L. 102–166); the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191); Department of the Interior Regulations at 43 CFR Parts 17 and 41; Presidential Executive Orders 12898, 13160, 13166, 13152, and 13145; and Departmental Manual 373 DM 8, dated July 1, 2005, subject: Procedures for Processing Complaints under Executive Order 13160, and 373 DM 7, dated December 1, 1998, subject: Equal Opportunity Procedures for Processing Complaints of Discrimination Based on Sexual Orientation.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaints of discrimination; reports of complaints investigation and supplementary documentary evidence; correspondence, including requests for information from other Federal agencies, and from minority, civil rights, women's and community organizations; documents obtained from recipients of permits, rights-of-way, public land orders, or other Federal authorizations, and their agents, contractors, and subcontractors, under the Trans-Alaska Pipeline Authorization Act (Pub L. 93–153, 87 Stat. 576); and relevant statistical data obtained from various sources.

(2) Systemic civil rights compliance reviews of recipients of Federal assistance; information on recipient employees, contractors or education instructor volunteers as contained in documents provided by recipients; medical information; eligibility determinations impacting complainants, witnesses or other parties; administrative subpoena files; staff interviews, self-evaluation plans; records of physical or mental impairments; racial/ethnic analyses of workforces and program enrollees; sanction hearings; notice of violations; language assistance plans; recipient staff interviews and interviews with members of the public; appeal files; training programs; civil enforcement files; environmental policies and program files.

(3) Any and all information contained on private individuals as described in number 2 above, contained in records of accessibility or other civil rights reviews pertaining to facilities owned and operated by the Department of the Interior and its bureaus.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d and 42 U.S.C. 2000e, *et seq*); Section 501, Section 504 and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, *et seq*) and its implementing regulations; the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 794, *et seq*) and its implementing regulations; the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621, *et seq*); Title IX of the Education Amendments of 1972 (Pub. L. 92–318); Section 403 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93–153.87 Stat. 576); the Americans with Disabilities Act of 1990 (Pub. L. 101–336); the Age Discrimination Act of 1975 (29 U.S.C. 621); the Architectural Barriers Act of 1968 (Pub. L. 90–480); the Civil Rights Restoration Act of 1987 (Pub. L. 100–259); the Civil Rights Act of 1991 (Pub. L. 102–166); the Health Insurance Portability and Accountability Act of 1196 (Pub. L. 104–191); and Department of the Interior Regulations at 43 CFR Parts 17 and 41; Presidential Executive Orders 12898, 13160, 13166, 13152 and 13145; 373 DM 8, dated July 1, 2005, and 373 DM 7, dated December 1, 1998.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the system is:

(1) To investigate and resolve complaints of discrimination, related to both employment civil rights and public civil rights.

(2) To compile statistical information on complaints of discrimination.

(3) To conduct systemic civil rights compliance reviews of recipients of Federal assistance.

(4) To conduct accessibility and other civil rights related evaluations of Department of the Interior facilities.

Disclosures outside the Department of the Interior may be made:

(1) To other Federal agencies charged with the enforcement of equal employment opportunity laws, orders and regulations, on a need-to-know basis to assist these agencies in their enforcement activities.

(2) (a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(3) To any criminal, civil, or regulatory law enforcement authority (whether federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(4) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(5) To an official of another federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(6) To federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(7) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(8) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(9) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(10) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether

maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(11) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(12) To the Department of the Treasury to recover debts owed to the United States.

(13) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), records can be disclosed to consumer reporting agencies as they are defined in the Fair Credit Reporting Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Within the Departmental office, manual records are stored in file folders in an Aisle Saver System manual storage system. An automated complaints management information system is used to manage and track the processing of complaints.

RETRIEVABILITY:

Records are retrieved by name and employing bureau of individuals filing complaints, docket control number of complaints, and other appropriate data fields.

SAFEGUARDS:

Access to records covered by the system will be permitted only to authorized personnel on a need-to-know basis in accordance with requirements found in the Departmental Privacy Act regulations (43 CFR 2.51). Records are maintained in accordance with safeguards meeting the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Departmental regulations (43 CFR part 2, subpart D). Standards for the maintenance of records subject to the Privacy Act are described in Departmental regulations (43 CFR 2.48) and involve the content of the records, data collection practices, and the use, safeguarding, and disposal of personal information in the records. Automated records are maintained in conformance with safeguards based on recommendations of the National Bureau of Standards contained in ''Computer Security Guidelines for Implementing the Privacy Act of 1974'' (FIPS Pub.41, May 30, 1975). They are protected through user identification, passwords, database permissions, and software controls. Such security measures establish different degrees of access levels for different types of users. A Privacy Impact Assessment was completed to ensure that Privacy Act requirements and personally identifiable information safeguard requirements are met. Within the Departmental office, manual records are stored in a locked Aisle Saver System (file unit) in a room locked with an off-master key. Within bureau offices, manual records are maintained with appropriate administrative, technical, and physical safeguards to insure their security and confidentiality. In all offices where records are handled, posted warning signs remind employees of access limitations, standards of conduct for employees handling Privacy Act records, and possible criminal penalties for violation of security regulations.

RETENTION AND DISPOSITION:

Records are retained and disposed of in compliance with the National Archives and Records Administration's General Records Schedule No. 1, Item No. 26.

SYSTEM MANAGER(S) AND ADDRESSES:

(1) Director, Office of Civil Rights, U.S. Department of the Interior, 1849 C Street, NW., MS–5221 MIB, Washington, DC 20240: For all discrimination complaints, accessibility reviews and civil rights compliance reviews covered by the authorities listed above under ''Categories of Individuals Covered by the System.''

(2) Director, Alaska State Office, Bureau of Land Management, 222 West 7th Avenue, #13, Anchorage, Alaska 99513: For complaints arising under section 493 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93–153, 87 Stat. 576).

(3) Associate Solicitor, Division of General Law, Office of the Solicitor, U.S. Department of the Interior, 1849 C Street, NW., MS–6530 MIB, Washington, DC 20240: For complaints of discrimination arising under Title VII of the Civil Rights of 1964, as amended (42 U.S.C. 2000e) and related employment-related civil rights laws and regulations, where the complaints are filed against the Departmental Office of Civil Rights.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records shall be addressed to the appropriate System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records shall be addressed to the appropriate System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

A request for an amendment of records shall be addressed to the appropriate System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Complainants; recipients of permits, rights-of-way, public land orders, or other Federal authorizations, and their agents, contractors, subcontractors, and employees under section 403 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 576); administrators and recipients of Government funds from programs administered by the Department of the Interior; Federal, State, and local government agencies; community, minority, civil rights, and women's organizations; unions; Members of Congress and their staffs; bureaus and offices of the Department of the Interior; and confidential informants, to the extent they possess relevant data otherwise unavailable.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–7273 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–RE–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Amendment to Existing System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed amendment of existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the Office of the Secretary of the Department of the Interior is issuing public notice of its intent to modify an existing Privacy Act system of records notice, DOI–85, ''Payroll, Attendance, Retirement, and Leave Records.'' The revisions will update the categories of

individuals covered by the system, categories of records in the system, routine uses of records maintained in the system, retrievability of records, records' safeguards, retention and disposition of records, and record source categories.

DATES: Comments must be received by May 19, 2008.

ADDRESSES: Any persons interested in commenting on these proposed amendments may do so by submitting comments in writing to the Office of the Secretary Privacy Act Officer, Sue Ellen Sloca, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue NW., Washington, DC 20240, or by e-mail to *Sue_Ellen_Sloca@nbc.gov*.

FOR FURTHER INFORMATION CONTACT: Tom Larson, Acting Chief, Personnel and Payroll Systems Division, National Business Center, U.S. Department of the Interior, 7201 West Mansfield Avenue, Denver, CO 80235–2230 or by email at *Thomas_D_Larson@nbc.gov*.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of the Department of the Interior is proposing to amend the system notice for DOI–85, ''Payroll, Attendance, Retirement, and Leave Records'' to update the categories of individuals covered by the system, categories of records in the system, routine uses of records maintained in the system, retrievability of records, records' safeguards, retention and disposition of records, and record source categories to reflect changes that have occurred since the notice was last published. These amendments will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Dated: April 1, 2008.

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer.

SYSTEM NAME:

Payroll, Attendance, Retirement, and Leave Records—Interior, DOI–85.

SYSTEM LOCATION:

(1) Personnel and Payroll Systems Division, National Business Center, U.S. Department of the Interior, 7201 West Mansfield Avenue, MS D–2400, Denver, CO 80235–2230.

(2) All Departmental offices and locations which prepare and provide input documents and information for data processing and administrative actions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current and former employees of the Department of the Interior (employees).

(2) Current and former emergency workers (''casuals'') of the Department of the Interior (emergency workers).

(3) Volunteers within the Department of the Interior (volunteers).

(4) Contractors within the Department of the Interior (contractors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Emergency worker name, emergency worker address, emergency worker phone numbers, emergency worker Social Security Number and organizational code; volunteer name, volunteer address, volunteer phone numbers, volunteer emergency contact information, (including name, address and phone number), volunteer Social Security Number and organizational code; contractor name, contractor Social Security Number, contractor organization; employee name, employee address, employee phone numbers, employee emergency contact information (including name, address and phone number), employee Social Security Number and organizational code; employee common identifier (ECI), pay rate, grade, length of service, individual's pay and leave records; source documents for posting time and leave attendance; allowances, and cost distribution records; deductions for Medicare, Old Age, Survivors, and Disability Insurance (OASDI, also known as Social Security), bonds, Federal Employees Group Life Insurance (FEGLI), union dues, taxes, allotments, quarters, retirement, charities, health benefits, Flexible Spending Account, Long Term Care, Thrift Savings Fund contributions, awards, shift schedules, and pay differentials, tax lien data, commercial garnishments, child support and/or alimony wage assignments; and related payroll and personnel data. Also included is information on debts owed to the government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee or emergency worker. The payroll, attendance, retirement, and leave records described in this notice form a part of the information contained in the Department of the Interior's integrated Federal Personnel and Payroll System (FPPS). Personnel records contained in the FPPS are covered under the government-wide system of records notice published by the Office of Personnel Management (OPM/GOVT–1) and the Department-wide system of records notice, DOI–79, ''Interior Personnel Records.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq.; 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for fiscal operations for payroll, time and attendance, leave, insurance, tax, retirement, debt, budget, and cost accounting programs; to prepare related reports to other Federal agencies including the Department of the Treasury and the Office of Personnel Management; for reporting purposes by the DOI component for which the employee works or the agency for which the DOI emergency worker works; and for human capital management purposes.

DISCLOSURE OUTSIDE THE DEPARTMENT OF THE INTERIOR MAY BE MADE:

(1) To the Department of the Treasury for preparation of payroll (and other) checks and electronic funds transfers to Federal, State, and local government agencies, non-governmental organizations, and individuals.

(2) To the Internal Revenue Service and to State, local, tribal, and territorial governments for tax purposes.

(3) To the Office of Personnel Management or its contractors in connection with programs administered by that office, including, but not limited to, the Federal Long Term Care (LTC) Insurance Program, the Federal Dental and Vision Insurance Program (FEDVIP), the Flexible Spending Accounts for Federal Employees Program (FSAFEDS), and the electronic Human Resources Information Program (EHRI).

(4) To another Federal agency to which an employee or DOI emergency worker has transferred or in which a DOI volunteer transfers in a volunteer capacity.

(5) (a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(6) To any criminal, civil, or regulatory law enforcement authority (whether federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(7) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(8) To Federal, State or local agencies where necessary to enable the employee's, DOI emergency worker's, or DOI volunteer's agency to obtain information relevant to the hiring or retention of that employee, DOI emergency worker, or DOI volunteer, or the issuance of a security clearance, contract, license, grant or other benefit.

(9) To appropriate Federal and State agencies to provide required reports including data on unemployment insurance.

(10) To the Social Security Administration to credit the employee's or emergency worker's account for OASDI and Medicare deductions.

(11) To labor unions to report union dues deductions.

(12) To employee or emergency worker associations to report dues deductions.

(13) To insurance carriers to report employee or DOI emergency worker election information and withholdings for health insurance.

(14) To charitable institutions to report contributions.

(15) To a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset.

(16) To disclose debtor information to the Internal Revenue Service or to another Federal agency or its contractor solely to aggregate information for the Internal Revenue Service to collect debts owed to the Federal government through the offset of tax refunds.

(17) To any creditor Federal agency seeking assistance for the purpose of that agency implementing administrative or salary offset procedures in the collection of unpaid financial obligations owed the United States Government from an individual.

(18) To any Federal agency where the individual debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect debts on the employee's behalf by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

(19) To disclose information to the Internal Revenue Service, and state and local authorities for the purposes of locating a debtor to collect a claim against the debtor.

(20) With respect to Bureau of Indian Affairs employee or DOI emergency worker records, to a Federal, State, local agency, or Indian tribal group or any establishment or individual that assumes jurisdiction, either by contract or legal transfer, of any program under the control of the Bureau of Indian Affairs.

(21) With respect to Bureau of Reclamation employee or DOI emergency worker records, to non-Federal auditors under contract with the Department of the Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits.

(22) To the Federal Retirement Thrift Investment Board's record keeper which administers the Thrift Savings Plan to report deductions, contributions and loan payments.

(23) To disclose the names, Social Security Numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information and state of hire of employees or emergency workers to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purposes of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

(24) To a commercial contractor to provide employment and income data for use in employment verifications, unemployment claims, and W–2 services.

(25) To OPM's Employee Express system to allow employees a self-service capability to initiate personnel and payroll actions and to obtain payroll information.

(26) To the Department of Labor for processing claims for employees, DOI emergency workers, or DOI volunteers injured on the job or claiming occupational illness.

(27) To support interfaces to other systems operated by the Federal agencies for which the employee or DOI emergency worker works, or a DOI volunteer volunteers, for the purpose of avoiding duplication, increasing data integrity and streamlining government operations.

(28) To an official of another federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(29) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(30) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(31) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(32) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or

confirmed compromise and prevent, minimize, or remedy such harm.

(33) To federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(34) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(35) To the Department of the Treasury to recover debts owed to the United States.

(36) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual, microfilm, microfiche, electronic, imaged and computer printout form. Original input documents are stored in standard office filing equipment and/or as imaged documents on magnetic media at all locations which prepare and provide input documents and information for data processing.

RETRIEVABILITY:

Records may be retrieved by employee, DOI emergency worker, or DOI volunteer identification such as name, Social Security Number, common identifier, birthday, organizational code, etc.

SAFEGUARDS:

Access to records covered by the system will be permitted only to authorized personnel in accordance with requirements found in the Departmental Privacy Act regulations (43 CFR 2.51). Paper or micro format records are maintained in locked metal file cabinets or in secured rooms. Electronic records are maintained with safeguards meeting the security requirements of 43 CFR 2.51 for automated records, which conform to Office of Management and Budget and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act. The electronic data are protected through user identification, passwords, database permissions, encryption and software controls. Such security measures establish different degrees of access for different types of users. An audit trail is maintained and reviewed periodically to identify unauthorized access. A Privacy Impact Assessment was completed and is updated at least annually to ensure that Privacy Act requirements and personally identifiable information safeguard requirements are met.

RETENTION AND DISPOSAL:

The records contained in this system of records have varying retention periods as described in the General Records Schedule, Sections 1, 2, and 20, (at *http://www.archives.gov*), issued by the Archivist of the United States, and are disposed of in accordance with the National Archives and Records Administration Regulations, 36 CFR part 1228 et seq. They are also covered by item 7551 of the Department of the Interior, Office of the Secretary's pending records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

The following system manager is responsible for the payroll records contained in the Department's Federal Personnel and Payroll System (FPPS): Chief, Personnel and Payroll Systems Division, National Business Center, U.S. Department of the Interior, 7201 West Mansfield Avenue, Denver, CO 80235–2230. Personnel records contained in the system fall under the jurisdiction of the Office of Personnel Management as prescribed in 5 CFR part 253 and 5 CFR part 297.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the requirements of 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

A petition for amendment should be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

The source data for the system comes from individuals on whom the records are maintained, official personnel records of individuals on whom the records are maintained, supervisors, timekeepers, previous employers, the Internal Revenue Service and state tax agencies, the Department of the Treasury, other federal agencies, courts, state child support agencies, employing agency accounting offices, and third-party benefit providers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–7274 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Royalty Policy Committee (RPC)—Notice of Renewal

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of renewal of the Royalty Policy Committee.

SUMMARY: Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior (Secretary) is renewing the Royalty Policy Committee.

The Royalty Policy Committee provides advice related to the Department's management of Federal and Indian mineral leases and revenues, and reports to the Secretary through the Director of the Minerals Management Service. The Royalty Policy Committee also reviews and provides comments on recent management and other mineral-related policies; and provides a forum to convey views representative of mineral leases, operators, revenue payors, revenue recipients, government agencies, and the interested public.

FOR FURTHER INFORMATION CONTACT: Ms. Gina Dan, Minerals Revenue Management, Minerals Management Service, Denver, Colorado 80225–0165, telephone number (303) 231–3392.

Certification

I hereby certify that the renewal of the Royalty Policy 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: March 27, 2008.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E8–7313 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection for Reindeer in Alaska, Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Proposed Renewal.

SUMMARY: The Bureau of Indian Affairs (BIA) is seeking comments on the information collection: 25 CFR part 243, Reindeer in Alaska. The information collected under this program is related to the Alaska Native reindeer industry and applies to non-natives who own, or want to own reindeer in Alaska. It is used solely to monitor and regulate the possession and use of Alaskan reindeer by non-Natives in Alaska. This collection needs renewal.

DATES: Submit comments on or before June 9, 2008.

ADDRESSES: Send comments to: Warren Eastland, Wildlife Biologist, Bureau of Indian Affairs, P.O. Box 25520 [3rd floor Federal Building], Juneau, AK 99802–5520; Telephone (907) 586–7321 and Facsimile at (907) 586–7120. We cannot accept electronic submissions at this time.

FOR FURTHER INFORMATION CONTACT: Warren Eastland, Wildlife Biologist, (907) 586–7321, Facsimile at (907) 586–7120.

SUPPLEMENTARY INFORMATION: Information to be provided includes name, address, and where an applicant will keep reindeer. The applicant must fill out a permit to get a reindeer for any purpose. The applicant is required to report on the status of reindeer annually or when a change occurs if earlier than the date for the annual report.

Request for Comments

The Bureau of Indian Affairs requests your comments on this collection concerning:

(a) The necessity of this information collection 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 the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used;

(c) Ways we could enhance the quality, utility and clarity of the information to be collected; and,

(d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it has a valid Office of Management and Budget (OMB) Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section, room 347D, during the hours of 8 a.m. to 5 p.m., Pacific Standard Time, Monday through Friday except for legal holidays. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comments. We cannot guarantee that your personally identifiable information might not be made public at some time. All comments from organizations or representatives will be available for review. We may withhold comments from review for other reasons.

OMB Control Number: 1076–0047.

Type of Review: Renewal.

Title: 25 CFR 243, Reindeer in Alaska.

Brief Description of Collection: Information is provided to obtain or retain a benefit, namely, a permit to obtain a reindeer, but without such information no permit shall be issued.

Respondents: Non-Natives who wish to possess Alaskan reindeer.

Number of Respondents: 10.

Estimated Time per Response: 5 to 20 minutes with the average being 10 minutes.

Frequency of Response: The number of respondents varies annually but never exceeds 10.

Total Annual Burden to Respondents: 3 hours.

Dated: March 28, 2008.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–7291 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–XN–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Energy Resource Agreement Regulations Public Information Meeting

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice advises the public that the Office of Indian Energy and Economic Development (IEED) will hold an all-day public information session on April 29, 2008, concerning the final regulations authorizing Tribal Energy Resource Agreements (TERA). These final regulations provide the process under which a tribe may apply for, and the Secretary of the Interior may grant, authority for an Indian tribe to review and approve leases and business agreements and grant rights-of-way for specific energy development activities on tribal lands through an approved TERA. The regulations also cover processes for implementation of TERAs, including periodic review and evaluation of a tribe's activities under a TERA, enforcement of TERA provisions, and administrative appeals. The regulations also include a process for a tribe to voluntarily rescind a TERA.

DATES: The public information meeting will begin at 9 a.m. on April 29, 2008.

ADDRESSES: The meeting will be held at the Colorado Convention Center, 700 14th Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Darryl Francois, Office of Indian Energy and Economic Development, Room 20-South Interior Building, 1951 Constitution Avenue, NW., Washington, DC 20245, Telephone (202) 219–0740 or Fax (202) 208–4564.

SUPPLEMENTARY INFORMATION: Title V of the Energy Policy Act of 2005, Public Law 109–58, requires the Department of the Interior to promulgate regulations that implement new provisions in 25 U.S.C. 3504 concerning Tribal Energy Resource Agreements (TERAs). The intent of these agreements is to promote tribal oversight and management of energy and mineral resource development on tribal lands and further the goal of Indian self-determination.

The Department published a final rule in the **Federal Register** titled Tribal Energy Resource Agreements under the Indian Tribal Energy Development and Self Determination Act on March 10, 2008 (73 FR 12808). The rule, which can be found in the Code of Federal Regulations at 25 CFR Part 224, fully implements the provisions of 25 U.S.C. 3504.

IEED staff will be on hand at the meeting to present an overview of the regulations and to provide information on how tribes can use the processes contained in the regulations in their energy development efforts. At the meeting, IEED staff will discuss topics covering application and agreement requirements, how to define the scope of a TERA, the process for determination of tribal capacity, the

type and range of internal tribal processes that must be developed, appeal processes, and periodic review parameters.

Dated: April 2, 2008.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–7305 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–4M–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Alaska OCS Region, North Aleutian Basin, Proposed Oil and Gas Lease Sale 214

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Call for Information and Nominations (Call) and Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

SUMMARY: This Call for Information and Nominations (hereinafter referred to as ''Call'') and the NOI are the initial information-gathering steps in a process that incorporates planning and analysis for proposed OCS Oil and Gas Lease Sale 214 in the program area of the North Aleutian Basin Planning Area offshore the State of Alaska. The program area is that subarea of the larger North Aleutian Basin Planning Area identified in the OCS Oil and Gas Leasing Program, 2007 to 2012, that may be offered in the proposed Sale 214. Readers are cautioned that this announcement is not a commitment to hold a lease sale but rather a continuation of the information-gathering and evaluation process.

Simultaneously with this Call, the MMS is giving notice of its intent to prepare an EIS for Sale 214 in the North Aleutian Basin, tentatively scheduled for 2011. The EIS analysis will focus on the potential environmental effects of oil and gas exploration, development, and production in the proposed sale area and its vicinity. This NOI also serves to announce the initiation of the scoping process for this EIS. The MMS will consider comments received in response to this NOI and Call in determining the proposed sale area and the scope of the EIS. The Department of the Interior (DOI) is also inviting other Federal, State, Tribal, and local governments to consider becoming cooperating agencies in the preparation of the EIS.

DATES: Nominations and Comments on the Call must be received no later than July 7, 2008. Submittals should be labeled ''Nominations for Proposed Sale 214'' or ''Comments on Call for Information and Nominations for Proposed Sale 214,'' as appropriate. Comments on the NOI also must be received no later than July 7, 2008. Submittals should be labeled ''Comments on the Notice of Intent for Proposed Sale 214.''

FOR FURTHER INFORMATION CONTACT: Please contact Dr. Cleve Cowles, Regional Supervisor, Office of Leasing and Environment, Minerals Management Service, Alaska OCS Region, 3801 Centerpoint Drive #500, Anchorage, Alaska 99503–5820, phone at (907) 334–5233 regarding questions on the Call or NOI.

Supplementary Information On the Call

The final EIS will serve as the National Environmental Policy Act (NEPA) analysis for North Aleutian Basin Sale 214. The MMS will prepare additional Coastal Zone Management Act (CZMA) Consistency Determination (CD), CZMA, and Outer Continental Shelf Lands Act (OCSLA) documents, as appropriate.

Call for Information and Nominations

1. Authority: This Call is published pursuant to the OCSLA as amended (43 U.S.C. 1331–1356, (1994)) and the regulations issued thereunder (30 CFR 256); and in accordance with the OCS Oil and Gas Leasing Program, 2007–2012.

2. Purpose of Call: The purpose of the Call is to gather nominations and information for proposed OCS Lease Sale 214, tentatively scheduled in 2011 in the ''program area'' of the North Aleutian Basin Planning Area.

Information and nominations on oil and gas leasing, exploration, and development and production within the program area of the North Aleutian Basin are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the DOI for its consideration in future decisions in the leasing process pursuant to the OCSLA and regulations at 30 CFR 256. This Call/NOI is being issued in accordance with the OCS Oil and Gas Leasing Program, 2007–2012.

This Call is to gather information and does not indicate a preliminary decision to lease in the areas described below. Final decision and delineation of each area for possible leasing will be made at a later date and only if there is compliance with applicable laws including all requirements of the OCSLA and NEPA using established departmental procedures.

3. Description of Area: The area that is the subject of this Call is located offshore the State of Alaska in the North Aleutian Basin Planning Area. The ''program area'' is that subarea of the larger planning area identified in OCS Oil and Gas Leasing Program, 2007–2012. The ''program area'' extends offshore from about 10 statute miles to approximately 120 statute miles, in water depths from approximately 40 feet (12 meters) to 120 feet (37 meters). This area consists of approximately 990 whole and partial blocks of about 2.3 million hectares (5.6 million acres). A page size map of the program area accompanies this Call. Official Protraction Diagrams (OPDs) are available at no charge at the website: *http://www.mms.gov/ld/alaska.htm.*

4. Instructions On Call: Nominations and information must be received no later than 90 days following publication of this Call in the **Federal Register**. Submittals should indicate ''Nominations for Proposed Sale 214'' or ''Comments on Call for Information and Nominations for Proposed Sale 214'' as appropriate. Comments on the NOI also must be received no later than July 7, 2008. Submittals should be labeled ''Comments on the Notice of Intent for Proposed Sale 214.''

Nominations and comments may be submitted by any one of the following methods:

- Mail or hand-deliver comments to the Regional Supervisor, Office of Leasing and Environment, Alaska OCS Region, Minerals Management Service, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5823.
- Submit comments by Internet through MMS Public Connect at this website: *https://ocsconnect.mms.gov/pcs-public/.*
- Fax comments to the Regional Supervisor, Office of Leasing and Environment, Alaska OCS Region, Minerals Management Service at (907) 334–5242.
- E-mail comments to *Sale214Call@mms.gov.*

Please submit e-mail or Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your e-mail or Internet message. If you do not receive a confirmation from the system that we have received your e-mail or Internet message, contact us directly at 1–800–764–2627.

The Call for Information Map delineates the Call area identified by MMS as having potential for the discovery of accumulations of oil and gas. Respondents are requested to indicate nominations and comments on

any or all of the Federal acreage within the boundaries of the Call area that they wish in proposed North Aleutian Basin Sale 214. Although individual nominations are considered privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record.

Nominations must be submitted using the large-scale Call for Information Map by outlining the areas of interest along block lines. Respondents should rank areas in which they have nominated according to priority of interest; for example, priority 1 (high), or 2 (medium). Blocks nominated that do not indicate priorities will be considered priority 3 (low). Respondents must be specific in indicating blocks by priority, and be prepared to discuss their range of interest and activity regarding the nominated area(s). The telephone number and name of a person to contact in the nominator's organization for additional information should be included in the response. The Alaska OCS Regional Office will contact this person to set up a mutually agreeable time and place for a meeting to more fully review the company's nominations. Respondents may also submit a detailed list of blocks nominated by Official Protraction Diagram and Leasing Map designations to ensure correct interpretation of their nominations.

Comments are sought from all interested parties about particular geological (including natural hazard areas), environmental, biological, archaeological, and socioeconomic conditions or potential conflicts, or other information that might bear upon the potential leasing, exploration, and development of the program area and vicinity. Comments are also sought on possible conflicts between future OCS oil and gas activities that may result from the proposed sales and the standards of the Alaska Coastal Management Program (ACMP), and the enforceable policies of an approved local district coastal management plan. These comments should identify specific Coastal Management Program (CMP) policies of concern, the nature of the conflict foreseen, and steps that MMS could take to avoid or mitigate the potential conflict. Comments may be in terms of broad areas or restricted to particular blocks or areas of concern. Those submitting comments are requested to list block numbers or outline the subject area on the standard Call for Information Map.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

5. Use Of Call Information: Information submitted in response to this Call will be used for several purposes. Responses will be used to:

- Identify the proposed sale area;
- Help identify areas of potential oil and gas development;
- Identify potential environmental effects and potential use conflicts;
- Assist in the scoping process for the EIS;
- Develop possible alternatives to the proposed action;
- Develop lease terms and conditions/mitigating measures; and
- Identify potential conflicts between oil and gas activities and the ACMP.

6. Tentative Schedule: The following is a list of tentative milestone dates that apply to Sale 214 covered by this Call:

Call/NOI published—April 2008.

Comments due on Call/NOI—June 2008.

Area Identification—September 2008.

Draft EIS available—January 2010.

Public Hearings—February/March 2010.

Final EIS available—January 2011.

Consistency Determination/Proposed Notice of Sale issued—January 2011.

Governor's Comments due—March 2011.

Final Notice of Sale published—October 2011.

Sale held—November 2011.

Supplemental Information on the Notice of Intent To Prepare an EIS

1. Authority: The NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.* (1988)) (NEPA).

2. Purpose of Notice of Intent: Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of NEPA, the MMS is announcing its intent to prepare an EIS for oil and gas lease Sale 214 tentatively scheduled for 2011 in the ''program area'' of North Aleutian Basin, offshore the State of Alaska. The proposed action is to offer for lease all of the blocks in the program area. The EIS analysis will focus on the potential environmental effects of oil and gas exploration, development, and production on the fish, wildlife, socioeconomic, and subsistence resources in the North Aleutian Basin ''program area'' and neighboring communities. This NOI also serves to announce the initiation of the scoping process for this EIS. Throughout the scoping process, Federal, State, Tribal, and local governments and other interested parties aid MMS in determining the significant issues, reasonable alternatives, and potential mitigating measures to be analyzed in the EIS and the possible need for additional information. Alternatives may include, at a minimum, the proposed action, taking no action, or implementing appropriate restrictions on oil and gas activities. These and any additional alternatives developed through scoping and the analytical process will be considered in the decisionmaking process.

3. Instructions on the Notice of Intent: Federal, State, Tribal, and local governments and other interested parties are requested to provide comments related to the scope of the EIS, including significant issues that should be addressed, reasonable alternatives, potential mitigation measures, and relevant information that should be considered. You may mail comments to the Minerals Management Service, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5823. Comments should be enclosed in an envelope labeled ''Attn: Sale 214 NOI.'' You may also submit comments via e-mail to *sale214NOI@mms.gov.* Please include ''Attn: NAB Lease Sale 214 NOI'' in the subject line, and your name and return address in the message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact us at (907) 334–5207. Lastly, you may hand-deliver comments to the address above. Comments are due no later than July 7, 2008.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the public record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to

withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Scoping meetings (to be announced at a later date) will be held in appropriate locations to obtain additional comments and information regarding the scope of the EIS.

A Notice of Availability of the draft EIS for public review and comment will be announced in the **Federal Register** by the MMS and the Environmental Protection Agency; on the MMS, Alaska OCS Region, homepage; and, in the local media. Public hearings will be held in the local area following release of the draft EIS. Dates and locations are to be determined.

4. Cooperating Agencies: The DOI policy is to invite other Federal agencies, and State, Tribal, and local governments to consider becoming cooperating agencies in the preparation of an EIS. Per Council of Environmental Quality (CEQ) regulations, qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency. Cooperating agency status neither enlarges nor diminishes the final decisionmaking authority of any agency involved in the NEPA process. The MMS invites qualified government entities to inquire about cooperating agency status for this lease sale EIS. Upon request, the MMS will provide qualified cooperating agencies with a written summary of ground rules for cooperating agencies, including time schedules and critical action dates, milestones, responsibilities, scope and detail of cooperating agencies' contributions, and handling of predecisional information.

The MMS anticipates this summary will form the basis for a Memorandum of Understanding between the MMS and each cooperating agency. You should also consider the CEQ's ''Factors for Determining Cooperating Agency Status.'' This document is available on the CEQ Web site at: *http://ceq.eh.doe.gov/nepa/regs/cooperating/cooperatingagencymemofactors.html.*

Even if your organization is not a cooperating agency, you will continue to have opportunities to provide information and comments to MMS during the normal public input phases of the NEPA/EIS process.

5. Background Information: The geologic basin is about 17,500 square miles in area and underlies the northern coastal plain of the Alaska Peninsula and the waters of Bristol Bay and is believed to be gas-prone. The ''program area'' is that subarea of the larger planning area identified in OCS Oil and Gas Leasing Program, 2007–2012. Water depths in the program area range from 40 to 120 feet (12 to 37 meters). The program area is approximately 10 statute miles from shore to more than 120 statute miles offshore. This area consists of approximately 990 whole and partial blocks of about 2.3 million hectares (5.6 million acres).

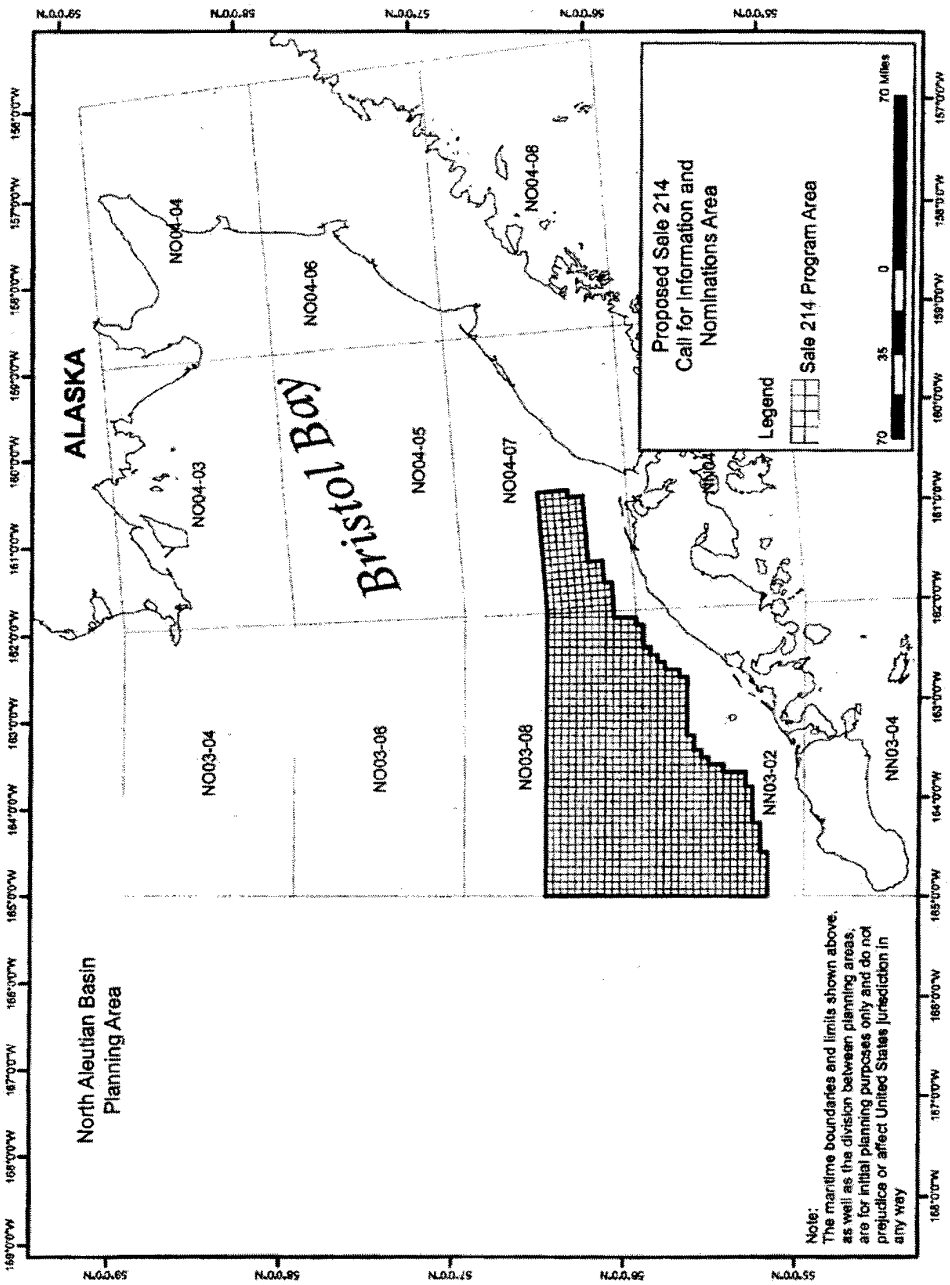
In 1985, the MMS prepared a final environmental impact statement for proposed NAB Sale 92 that assessed the potential impacts of oil and gas leasing activities in the NAB Planning Area (*Final Environmental Impact Statement, North Aleutian Basin Sale 92, OCS EIS/EA MMS 85–0052,* September 1985). On October 11, 1988, Sale 92 occurred and resulted in the issuance of 23 leases.

In October 1989, the North Aleutian Basin Planning Area was placed under a congressional moratorium which banned DOI expenditures in support of any petroleum leasing or development activities in the planning area. In 1995, the Federal Government bought back the 23 leases that were acquired in the 1988 sale. In 1998, an Executive Order extended the moratorium as a Presidential withdrawal until 2012. In 2004, the congressional moratorium on petroleum-related activities in the NAB was discontinued and in 2007, the Presidential withdrawal was modified to exclude the North Aleutian Basin.

In anticipation of potential leasing-related analysis for the North Aleutian Basin, the MMS Environmental Studies Program convened, in the fall of 2006, a Research Planning Meeting to review the status of environmental information in the NAB and to initiate planning for future study efforts. The MMS also contracted scientific staff at Argonne National Laboratory to conduct a literature search of relevant scientific publications over the last ten years (1996 to 2006), leading to the production of a literature synthesis report. Over 600 recent reports or studies were identified to supply information relevant to the EIS. In 2007, the MMS and the National Marine Fisheries Service began collaboration on a study of the North Pacific right whale, a federally designated endangered species, in the NAB. The MMS also contracted to modify an ice-ocean circulation model for Alaska's Bristol Bay. Proposed studies for fiscal year 2008 include research on subsistence food harvest and sharing activities, studies of juvenile and maturing salmon, and nearshore mapping of juvenile salmon and settling crab. Additional studies are proposed for fiscal year 2009. Information on the Environmental Studies Program, completed studies, and a status report for continuing studies in the NAB area may be found at this Web site: *http://www.mms.gov/alaska* or obtained by telephone request at 1–800–764–2627, or by written request at the address noted above.

Additional pertinent information may also be found at the following Web sites: *http://www.mms.gov/alaska/re/index.htm* and *http://www.mms.gov/alaska/fo/INDEX.HTM.*

BILLING CODE 4310–MR–P



Dated: March 21, 2008.

Jon Hrobsky,

Acting Director, Minerals Management Service.

[FR Doc. E8–7091 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Record of Decision for the North Shore Road Environmental Impact Statement, Great Smoky Mountains National Park

AGENCY: National Park Service.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C) and National Park Service (NPS) policy in Director's Order 12 (Conservation Planning, Environmental Impact Analysis, and Decision Making), the NPS in cooperation with the Federal Highway Administration announces the availability of the Record of Decision (ROD) for the North Shore Road Environmental Impact Statement (EIS) in the Great Smoky Mountains National Park (Park), North Carolina. The ROD was approved by the Southeast Regional Director on December 28, 2007. The NPS has selected the preferred alternative (Monetary Settlement Alternative) as described in the Final EIS to ensure that resources of the Park and the Appalachian National Scenic Trail (Trail) will be unimpaired for the enjoyment of future generations, and fulfill project goals and objectives including the protection of natural, cultural, and recreational resources.

The selected alternative and four other alternatives, including a No-Action Alternative, were analyzed in the Draft and Final EIS. The full range of foreseeable environmental consequences was assessed. The NPS believes the Monetary Settlement Alternative will best accomplish the goals of the Park and the Trail. NPS selected the Monetary Settlement because it protects the significant and diverse natural resources and ecosystems of the Park (forest communities, water resources, protected species, and soundscapes). It will avoid disturbance to the Park and allow the Park to protect resources from adverse effects of problematic geologic formations and acidic runoff. The Monetary Settlement will also protect the tangible (archaeological sites, historic structures, landscapes, cemeteries, and traditional cultural properties) and intangible (feelings of attachment, family life, myth, folklore, and ideology) aspects of cultural resources in the Park. The Monetary Settlement Alternative is consistent with NPS management of the Park within the study area as backcountry. The Monetary Settlement Alternative allows for the traditional recreational activities of hiking, camping, fishing, and horse use in this backcountry area of the Park. It maintains the existing balance of visitors and resource use in this backcountry area and preserves the associated peace and solitude currently available there.

The ROD includes a statement of the decision made, other alternatives considered, the basis for the decision, a finding of no impairment of Park resources and values, and an overview of public involvement in the decision-making process. This decision is the result of a public planning process that began in 2003. The official responsible for this decision is the NPS Regional Director, Southeast Region.

DATES: The ROD was approved by the Southeast Regional Director on December 28, 2007.

ADDRESSES: The ROD, Final EIS, Draft EIS, and other information are available for review or download on the Internet at *http://www.northshoreroad.info.*

Copies of the ROD will also be available for review at the following locations:

Pack Memorial Library, 67 Haywood Street, Asheville, North Carolina 28801; Marianna Black Library, 33 Fryemont Road, Bryson City, North Carolina 28713; Charlotte and Mecklenburg County Main Library, 310 North Tryon Street, Charlotte, North Carolina 28202; Qualla Boundary Public Library, 810 Acquoni Road, Cherokee, North Carolina 28719; Anna Porter Public Library, 207 Cherokee Orchard Road, Gatlinburg, Tennessee 37738; GSMNP Headquarters, 107 Park Headquarters Road, Gatlinburg, Tennessee 37738; Lawson-McGee Library, 500 West Church Avenue, Knoxville, Tennessee 37915; Cameron Village Regional Library, 410–200 Oberlin Road, Raleigh, North Carolina 27605; Graham County Public Library, 80 Knight Street, Robbinsville, North Carolina 28771.

FOR FURTHER INFORMATION CONTACT: North Shore Road EIS, Attention: Superintendent, Great Smoky Mountains National Park, 107 Park Headquarters Road, Gatlinburg, Tennessee 37738, Telephone: 865–436–1207 or Fax: 865–436–1220.

SUPPLEMENTARY INFORMATION: The authority for publishing this notice is 42 U.S.C. 4332(2)(C).

The responsible official for this EIS is Paul Anderson, Acting Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: February 8, 2008.

Paul R. Anderson,

Acting Regional Director, Southeast Region.

[FR Doc. E8–7146 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–8A–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Draft Environmental Impact Statement, Guadalupe Mountains National Park, Texas

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement for the General Management Plan, Guadalupe Mountains National Park.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of a Draft Environmental Impact Statement for the Draft General Management Plan for Guadalupe Mountains National Park, Texas.

DATES: The National Park Service will accept comments on the Draft Environmental Impact Statement from the public for 60 days from the date the Environmental Protection Agency publishes the Notice of Availability. Public meetings will be scheduled during the 60 day review period.

These meetings will be announced in the local media, on the park's Web site at *http://www.nps.gumo/,* and via the NPS park planning Web site at *http://parkplanning.nps.gov.* Interested persons may also contact the park's headquarters at 915–828–3251.

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov,* in the office of the Superintendent, John Lujan, Guadalupe Mountains National Park Headquarters, 400 Pine Springs Canyon, Salt Flats, Texas, by calling 915–828–3251, and at the following locations: Culberson County Court House, 300 La Caverna Drive, Van Horn, Texas 79855; Carlsbad Public Library, 101 South Halagueno Street, Carlsbad, New Mexico 88220; El Paso Public Library, Government Documents, 501 N. Oregon Street, El Paso, Texas 79901; Dell City ISD Library, 110 North Main Street, Dell City, Texas 79837; Carlsbad Caverns National Park, Administrative Office,

3225 National Parks Highway, Carlsbad, New Mexico 88220.

FOR FURTHER INFORMATION CONTACT: John Lujan, Superintendent, Guadalupe Mountains National Park, 400 Pine Springs Canyon, Salt Flats, Texas 79847–9400, or at *GUMO_Superintendent@nps.gov*.

SUPPLEMENTARY INFORMATION: The general management plan will guide management of Guadalupe Mountains National Park for the next fifteen to twenty years. The draft general management plan considers four alternatives—a no-action alternative and three action alternatives, including the National Park Service preferred alternative. The no-action alternative would extend existing conditions and management trends into the future. The preferred alternative would emphasize wilderness values and the restoration of ecosystem processes while expanding some opportunities for visitors to enjoy easier access to park settings than currently exist. Alternative B would promote wilderness values and restoration of natural ecosystem processes while providing improved visitor experiences in the existing developed settings. Alternative C would expand opportunities for visitors to enjoy easier access to a range of park settings and disperse park facilities more widely throughout the park. If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to John Lujan, Superintendent, Guadalupe Mountains National Park, 400 Pine Springs Canyon, Salt Flats, Texas 79847–9400. You may also comment via the Internet at *http://parkplanning.nps.gov*. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at 915–828–3251 x 0. Finally, you may hand-deliver comments to Guadalupe Mountains National Park Headquarters, 400 Pine Springs Canyon, Salt Flats, Texas 79847–9400. 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 7, 2008.

Michael D. Snyder,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. E8–7144 Filed 4–7–08; 8:45 am]

BILLING CODE 4312–CJ–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement for the Dyke Marsh Wetland Restoration and Long-Term Management Plan

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the Dyke Marsh Wetland Restoration and Long-term Management Plan, George Washington Memorial Parkway.

SUMMARY: In accordance with § 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 43321 *et seq.*), the National Park Service (NPS) is preparing an Environmental Impact Statement for the Dyke Marsh Wetland Restoration and Long-term Management Plan (EIS) for George Washington Memorial Parkway, Virginia. The authority for publishing this notice is contained in 40 CFR 1508.22.

The purpose of this EIS is to develop a plan for the restoration and long-term management of the tidal freshwater marsh and other associated wetland habitats lost or impacted in Dyke Marsh Preserve on the Potomac River. Dyke Marsh wetland resources, community structure and natural ecosystem functions have been damaged by previous human uses and are subject to continuing threats. A restoration and long-term management plan is needed at this time to: (1) Protect the existing wetlands from erosion, exotic plant species, loss of habitat and altered hydrologic regimes; (2) Restore wetlands and ecological functions and processes lost through sand and gravel mining and shoreline erosion; (3) Reduce increased restoration and management costs associated with continued wetland loss; and (4) Improve ecosystem services that benefit the Potomac Watershed.

Scoping Process. The purpose of scoping outreach efforts is to elicit early public comment regarding project purpose, need, and objectives, issues and concerns, the nature and extent of potential environmental impacts (and as appropriate, mitigation measures), and alternatives which should be addressed in the EIS. Through the outreach activities planned in the scoping phase, NPS welcomes information and suggestions from the public. This notice formally initiates the public scoping comment phase for the EIS process. A scoping newsletter has been prepared that details the purpose, need, and objectives identified to date. Copies of that information will be posted at *parkplanning.nps.gov/gwmp* and may be obtained from Brent Steury, Turkey Run Park, McLean, VA 22101, (703) 289–2541. A public scoping open house will be conducted in the area around Dyke Marsh. Please check the local newspapers, the NPS Planning, Environment and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov/gwmp*, or contact Brent Steury for more information regarding the open house.

DATES: The National Park Service is soliciting further public input into this planning process until May 23, 2008.

ADDRESSES: Persons commenting on the purpose, need, objectives, alternative elements, or any other issues associated with the plan, may submit comments through the PEPC Web site at *http://parkplanning.nps.gov/gwmp*, by hand-delivery or mail to: Superintendent, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia 22101, or by providing comments to NPS staff at the public open house.

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 to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Brent Steury, Supervisory Biologist, Natural Resources Program Manager, George Washington Memorial Parkway, Park Headquarters, Turkey Run Park, McLean, VA 22101, (703) 289–2541.

SUPPLEMENTARY INFORMATION: The purpose of this ETS is to develop a plan for the restoration and long-term management of the tidal freshwater marsh and other associated wetland habitats lost or impacted in Dyke Marsh Preserve on the Potomac River.

Dyke Marsh Preserve is one of the last large tracts of tidal freshwater marsh along the Potomac River in the Washington, DC area and has existed for at least 5,000 years.

Located just south of Alexandria, Virginia, Dyke Marsh Preserve is viewed as a national treasure because of its proximity to the Nation's Capital and a large urban/suburban population, its

history and its current potential for provision of ecosystem services, recreational values and educational opportunities. Despite degradation to the existing marsh, it continues to provide numerous natural benefits and services including resident and migratory wildlife habitat, refuge for state endangered species, and attenuation of tidal energy, shoreline stabilization, flood control, and water quality enhancement.

The goal of the actions described in the EIS is to restore areas of Dyke Marsh that were previously impacted using soil elevations that will permit the establishment of sustainable plant communities while preventing damage to vegetation in the existing wetland. In the long-term, the project will provide additional wetlands to the Potomac River watershed ecosystem, preserve the aesthetic and natural values of Dyke Marsh and the George Washington Memorial Parkway, and continue to offer recreational opportunities currently available. Specific objectives of the plan are:

Natural Resources (1) Restore, protect, and maintain tidal freshwater wetlands and associated ecosystems to provide habitat for fish, wildlife and other biota; ensure management actions promote native species while minimizing the intrusion of invasives. (2) Reduce or eliminate erosion of the existing marsh and provide for erosion control measures in areas of restored marsh. (3) To the extent practicable, restore and maintain hydrologic processes needed to sustain Dyke Marsh.

Cultural Resources Ensure management actions continue to protect the historic resources and cultural landscape features associated with Dyke Marsh and the George Washington Memorial Parkway.

Visitor Experience Include appropriate educational, interpretation, and research opportunities at Dyke Marsh as a part of any management action and make them accessible to diverse audiences.

Preliminary scoping also identified broad categories of elements that will be further defined as alternatives become developed. These categories include: types of actions that may be taken (stabilizing the existing marsh, restoring wetlands lost to sand and gravel mining, restoring historic tidal flows, etc.); various ways these actions could be implemented (types of containment structures, placement of tidal channels, stabilization techniques, etc.); and where, and to what extent, these actions may be taken (full *vs.* partial restoration, identification of priority areas, considerations related to the timing of the actions, etc.).

Dated: February 11, 2008.

Joseph M. Lawler,

Regional Director, National Capital Region.

[FR Doc. E8–7148 Filed 4–7–08; 8:45 am]

BILLING CODE 4312–JK–M

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore; South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Two Hundredth Sixty-Fifth Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, Section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on April 28, 2008.

The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or her designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. in the meeting room at Headquarters, Marconi Station, Wellfleet, Massachusetts, for the regular business meeting to discuss the following:

1. Adoption of Agenda.
2. Approval of Minutes of Previous Meeting (February 25, 2008).
3. Reports of Officers.
4. Reports of Subcommittees.
5. Superintendent's Report:
   Update on Dune Shacks and Report;
   Improved Properties/Town Bylaws;
   Wind Turbines/Cell Towers;
   Highlands Center Update;
   Atlantic Research Center Update;
   Alternate Transportation Funding;
   Centennial Challenge.
6. Old Business.
7. New Business.
8. Date and Agenda for Next Meeting.
9. Public Comment; and
10. Adjournment.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: March 5, 2008.

George E. Price, Jr.,

Superintendent.

[FR Doc. E8–7143 Filed 4–7–08; 8:45 am]

BILLING CODE 4310–WV–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–08–007]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 18, 2008 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–1145 (Preliminary) (Certain Steel Threaded Rod from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before April 21, 2008; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before April 28, 2008.)
5. Inv. No. 731–TA–1111 (Final) (Glycine from India)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before May 5, 2008.)
6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: April 2, 2008.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E8–7269 Filed 4–7–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of a 15-Day Extension of Comment Period With Respect to the Agreed Amendment to the Consent Decree Providing for Remedial Actions at Neal's Landfill, Lemon Lane Landfill and Bennett's Dump and Addressing General Matters Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that the United States is extending the public comment period with respect to the proposed Amendment to the Consent Decree Providing for Remedial Actions at Neal's Landfill, Lemon Lane Landfill and Bennett's Dump and Addressing General Matters (''Amendment''), which was lodged with the United States District Court for the Southern District of Indiana on February 19, 2006 in the matter of *United States of America et al.*, v. *CBS Corporation*, Civil Action No. 1:81–cv–0448–RLY–KPF.

The terms of the proposed Amendment are described in a notice published in the **Federal Register** on Tuesday, February 26, 2008, 73 FR 10,286–01. That notice provided an opportunity for submission of public comments for a 30-day period that ended on Thursday, March 27, 2008. In response to requests from the public, however, the United States is now giving notice that it will receive for an additional period of fifteen (15) days from the date of this publication comments relating to the proposed Amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America et al.*, v. *CBS Corporation*, D.J. Ref. 90–7–1–212A.

The Amendment may be examined at the Office of the United States Attorney, 10 W. Market St., Suite 2100, Indianapolis, IN 46204, and at U.S. EPA Region V, 77 West Jackson Blvd., Chicago, IL 60604–3590. During the public comment period, the Amendment may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Amendment may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $207.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. In requesting a copy exclusive of appendices, please enclose a check in the amount of $17.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–7280 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0035]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Firearms Transaction Record Low Volume Part I Over-the-Counter and Part II Intra-State Non-Over-the-Counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 9, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Barbara Terrell, Firearms Enforcement Branch, 99 New York Avenue, NE., Washington, DC 20226.

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:* Firearms Transaction Record Low Volume Part I Over-the-Counter and Part II Intra-State Non-Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4473 (5300.24) Part I (LV) and ATF F 4473 (5300.25) Part II (LV) and ATF REC 7570/2. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individual or households. The forms are used by low volume firearms dealers to record acquisition and disposition of firearms and to determine the eligibility of buyers to receive firearms. The forms are part of the licensee's permanent record and may be used to trace firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,000 respondents will complete a 20 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,666 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 3, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E8–7325 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0030]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Records and Supporting Data: Importation, Receipt, Storage, and Disposition By Explosives Importers, Manufacturers, Dealers, and Users Licensed Under Title 18 U.S.C. Chapter 40 Explosives.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 9, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Bangs, Chief, Explosives Industry Programs Branch, 99 New York Ave, NE., Washington, DC 20226.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following 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:* Records and Supporting Data: Importation, Receipt, Storage, and Disposition By Explosives Importers, Manufacturers, Dealers, and Users Licensed Under Title 18 U.S.C. Chapter 40 Explosives.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Recordkeeping Number: ATF REC 5400/3. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. The records show daily activities in the importation, manufacture, receipt, storage, and disposition of all explosive materials covered under 18 U.S.C. Chapter 40 Explosives. The records are used to show where and to whom explosive materials are sent, thereby ensuring that any diversions will be readily apparent and if lost or stolen, ATF will be immediately notified.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50,519 respondents will take 1 hour to maintain records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 637,570 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 3, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E8–7327 Filed 4–7–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of Intent to Solicit Cooperative Agreement Applications.

SUMMARY: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), intends to obligate approximately USD 21 million to support cooperative agreement awards to organizations to address exploitive child labor and forced labor internationally. ILAB intends to award, through a competitive and merit-based process, cooperative agreements to organizations to develop and implement formal, non-formal, and vocational education projects as a means to combat exploitive child labor in the following five countries: Guinea, Jordan, Madagascar, Nicaragua, and Yemen. ILAB intends to fund projects that focus on withdrawing and preventing children who are engaged in, or at risk of engaging in, exploitive child labor through the provision of direct educational services. The projects should propose innovative ways to provide these educational services to target populations and address the gaps and challenges to basic education found in the countries mentioned above. ILAB also intends to award a cooperative agreement to an organization(s) to conduct research on forced labor in selected countries to be determined. ILAB intends to solicit cooperative agreement applications from qualified organizations (*i.e.*, any commercial, international, educational, or non-profit organization, including any faith-based, community-based, or public international organizations(s), capable of successfully developing and implementing child labor projects) to implement these projects. Please refer to *http://www.dol.gov/ilab/grants/main.htm* for examples of previous notices of availability of funds and solicitations for cooperative agreement applications.

Information on the specific sectors, geographical regions, and funding levels for the potential projects in the countries listed above will be addressed in a solicitation(s) for cooperative agreement applications to be published prior to September 30, 2008. Potential applicants should not submit inquiries to USDOL for further information on these award opportunities until after USDOL's publication of the

solicitations. For a list of frequently asked questions on Solicitations for Cooperative Agreement Applications (based on last year's solicitations, SGAs 07–10 and 07–11), please visit *http://www.dol.gov/ilab/faq/faq0710.htm*.

Key Dates: The forthcoming solicitation(s) for cooperative agreement applications will be published on *http://www.grants.gov* and USDOL/ILAB's Web site. A brief synopsis of the solicitation(s) for cooperative agreement applications (SGA) and Web site links to the full-text SGAs will be published in the **Federal Register**. The SGA will remain open for at least 30 days from the date of publication. All cooperative agreement awards will be made on or before September 30, 2008.

Submission Information: Applications in response to the forthcoming solicitation must be submitted via *http://www.grants.gov.* Any application sent by mail or other delivery services, e-mail, telegram, or facsimile (Fax) will not be accepted.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Harvey. E-mail address: *harvey.lisa@dol.gov.* All inquiries should make reference to the USDOL Combating Child Labor through Education—Solicitations for Cooperative Agreement Applications.

Bidders' Meeting: USDOL intends to hold a bidders' meeting on April 24, 2008, in Washington, DC at the Department of Labor from 1:30 p.m. to 3:30 p.m. The purpose of this meeting is to provide potential applicants with the opportunity to ask questions concerning this Solicitation for Cooperative Agreement Applications process. To register for the meeting, please call or email Ms. Doris Senko (Phone: 202–693–4843; E-mail: *senko.doris@dol.gov*) by April 17, 2008. Please provide Ms. Senko with attendees' contact information, including name, organization, address, phone number, and e-mail address.

Background Information: Since 1995, USDOL has supported technical cooperation programming to combat exploitive child labor internationally through the promotion of educational opportunities for children in need. In total, the U.S. Congress has appropriated to USDOL over U.S. $660 million to support activities to combat exploitive child labor internationally. In turn, ILAB has signed cooperative agreements with various organizations to support international technical assistance projects to combat exploitive child labor in over 75 countries around the world.

USDOL international programming to combat exploitive child labor through education seeks to nurture the development, health, safety, and enhanced future employability of children around the world by withdrawing or preventing children from involvement in exploitive labor and providing them with access to basic education, vocational training and other services. Eliminating exploitive child labor depends, in part, on improving access to, quality of, and relevance of educational and training opportunities for children under 18 years of age. Without improving such opportunities, children withdrawn from exploitive forms of labor may not have viable alternatives to child labor and may be more likely to return to such work or resort to other hazardous means of subsistence.

International projects funded by USDOL to combat exploitive child labor seek to:

1. Withdraw or prevent children from involvement in exploitive child labor through the provision of direct educational and training services;
2. Strengthen policies on child labor and education, the capacity of national institutions to combat child labor, and formal and transitional education systems that encourage working children and those at risk of working to attend school;
3. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;
4. Support research and the collection of reliable data on child labor; and
5. Ensure the long-term sustainability of these efforts.

When working to eradicate exploitive child labor, USDOL strives to complement existing efforts, to build on the achievements of and lessons learned from these efforts, to expand impact and build synergies among actors, and to avoid duplication of resources and efforts.

Signed at Washington, DC this 1st day of April, 2008.

Lisa Harvey,

Grant Officer.

[FR Doc. E8–7231 Filed 4–7–08; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request; Submitted for Public Comment and Recommendations; Hazard Communication

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or containing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before June 9, 2008.

ADDRESSES: Send comments to U.S. Department of Labor, Mine Safety and Health Administration, Debbie Ferraro, Management Services Division, 1100 Wilson Boulevard, Room 2141, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to *Ferraro.debbie@dol.gov*. Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(a)(7) of the Mine Act requires, in part, that mandatory standards ''prescribe the use of labels or other appropriate forms of warning as are necessary to insure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions for safe use or exposure''. MSHA collected evidence from the National Institute for Occupational Safety and Health's (NIOSH) Occupational Health Survey of Mining and other sources indicating that there is chemical exposure occurring in every type of mine, although every miner may not be exposed. We are concerned that miners being exposed to chemicals may not know the hazards of those chemicals or the appropriate precautions to prevent injury or illness caused by exposure to a hazardous chemical.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection

requirement related to Hazard Communication (HazCom). MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of MSHA's functions, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Address the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (e.g., permitting electronic submissions of responses) to minimize the burden of the collection of information on those who are to respond.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **ADDRESSES** section of this notice or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov/*) and selecting ''Rules and Regs'', and then selecting ''Fed Reg Docs.''

III. Current Actions

The HazCom standard involves third-party information sharing. It requires mine operators and/or contractors to assess the hazards of chemicals they produce or use and provide information to their miners concerning the chemicals' hazards. The mine operators and/or contractors must develop a written hazard communication program that describes how they will inform miners of chemical hazards and safe handling procedures through miner training, labeling containers of hazardous chemicals, and providing miners access to material safety data sheets (MSDSs). The purpose of the information sharing is to provide miners with the right to know the hazards and identities of the chemicals they are exposed to while working, as well as the measures they can take to protect themselves from these hazards. Through HazCom mine operators and/or contractors also have the necessary information regarding the hazards of chemicals present at their mines, so that work methods are improved or instituted to minimize exposure to these chemicals. HazCom provides miners with access to this information, so that they can take action to protect themselves.

Type of Review: Extension.
Agency: Mine Safety and Health Administration.
Title: Hazard Communication.
OMB Number: 1219–0133.
Recordkeeping: 3 years.
Frequency: On Occasion.
Affected Public: Business or other for profit.
Total Respondents: 22,381.
Total Responses: 813,753.
Estimated Total Burden Hours: 177,668.
Total Burden Cost (operating/maintaining): $13,199.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 2nd day of April, 2008.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. E8–7259 Filed 4–7–08; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* This is the second notice; the first notice was published at 73 FR 4922 and no comments were received. 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; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW. Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* 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 703–292–7556.

NSF 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.

SUPPLEMENTARY INFORMATION:

Title of Collection: National Science Foundation Applicant Survey.

OMB Approval Number: 3145–0096.

Type of Request: Intent to seek approval to extend an information collection for three years.

Proposed Project: The current National Science Foundation Applicant survey has been in use for several years. Data are collected from applicant pools to examine the racial/sexual/disability composition and to determine the source of information about NSF vacancies.

Use of the Information: Analysis of the applicant pools is necessary to determine if NSF's targeted recruitment efforts are reaching groups that are underrepresented in the Agency's workforce and/or to defend the Foundation's practices in discrimination cases.

Burden on the Public: The Foundation estimates about 4,000 responses annually at 1 minute per response; this computes to approximately 67 hours annually.

Dated: April 3, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–7331 Filed 4–7–08; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Pub.L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by May 8, 2008. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application No. 2009–002

1. *Applicant:* Peter West, Office of Legislative and Public Affairs, Suite 1245, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Areas. The applicant plans to enter Beaufort Island (ASPA 105), Cape Royds (ASPA 121), Arrival Heights (ASPA 122), Canada Glacier (ASPA 131), Cape Evans (ASPA 155), Backdoor Bay, Cape Royds (ASPA 157), and Hut Point (ASPA 158) to escort media personnel covering scientists conducting research in these various locations.

Location

Beaufort Island (ASPA 105), Cape Royds (ASPA 121), Arrival Heights (ASPA 122), Canada Glacier (ASPA 131), Cape Evans (ASPA 155), Backdoor Bay, Cape Royds (ASPA 157), and Hut Point (ASPA 158).

Dates

October 1, 2008 to September 30, 2013.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. E8–7276 Filed 4–7–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 13, 2008 to March 26, 2008. The last biweekly notice was published on March 25, 2008 (73 FR 15780).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, person(s) may file a request for a hearing with respect

to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-Filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *hearingdocket@nrc.gov*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC

technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station (Oyster Creek), Ocean County, New Jersey

Date of amendment request: November 13, 2007.

Description of amendment request: The proposed amendment would delete the Oyster Creek Technical Specification (TS) 6.5, ''Review and Audit.'' Specifically, the proposed change would delete TS 6.5.1, ''Technical Review and Control,'' TS 6.5.2, ''Independent Safety Review Function,'' and TS 6.5.3, ''Audits'' which are currently being implemented by the Exelon/AmerGen Quality Assurance Topical Report. Additionally, the proposed amendment would correct typographical errors in Table 3.1.1, ''Protective Instrumentation Requirements'' and Table 4.1.1, ''Minimum Check, Calibration and Test Frequency for Protective Instrumentation'' and would delete the Condenser Vacuum Pump Isolation Surveillance from Table 4.1.2, ''Minimum Test Frequencies for Trip Systems.'' The TS required operability associated with the Surveillance Requirement (SR) was removed from the Oyster Creek TSs via Amendment No. 169 and removal of the SR was inadvertently omitted. This request for approval of a license amendment was submitted concurrently with a similar request for Three Mile Island Nuclear Station, Unit No. 1 (TMI). Due to some differences in the requested changes, the TMI amendment request will be noticed separately.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

No physical changes to the facilities, OCNGS [Oyster Creek] and TMI, will occur as a result of this proposed amendment. The proposed changes will not alter the physical design or operational procedures associated with any plant structure, system, or component.

The proposed changes involve the deletion of several administrative requirements from the Technical Specifications (TS) that are now controlled under the Exelon/AmerGen Quality Assurance Topical Report (QATR) and several administrative procedures, AS–AA–102, [Station Qualified Review Program], HU–AA–1212 (Independent Third Party Reviews), LS–AA–101 (License/TS changes), LS–AA–106 (PORC), NO–AA–200–002 (Audits) and SY–AA–101–104 (Security Plan changes), and are, therefore, administrative in nature. The TS requirements involve Technical Review and Control and Audits. In accordance with the guidance provided in NRC Administrative Letter 95–06, ''Relocation of Technical Specification Administrative Controls related to Quality Assurance,'' the proposed changes are an acceptable method for removing technical specification quality assurance requirements.

The Independent Safety Review Function is being deleted because it is a redundant independent safety review to the existing independent review process being performed under the AmerGen/Exelon PORC.

The remaining proposed changes are administrative in nature and have no affect on plant operation. The changes do not reduce the duties and responsibilities of the organizations performing the technical review, independent safety review and audit functions essential to ensuring the safe operation of the plant.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are administrative in nature. The proposed changes do not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. Accordingly, the changes do not introduce any new accident initiators, nor do they reduce or adversely affect the capabilities of any plant structure, system, or component to perform their safety function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes conform to NRC regulatory guidance regarding the content of plant Technical Specifications. The guidance is presented in Administrative Letter 95–06, NUREG–1430[, ''Standard Technical Specifications—Babcock and Wilcox Plants,''] and NUREG–1433[, ''Standard Technical Specifications—General Electric Plants, BWR/4.''] The relocation of these

administrative requirements and the deletion of a redundant independent safety review function will not reduce the [effectiveness of the] quality assurance commitments as accepted by the [Nuclear Regulatory Commission (NRC)], nor reduce administrative controls essential to the safe operation of the plant. Future changes to these administrative requirements will be performed in accordance with NRC regulation 10 CFR 50.54(a), consistent with the guidance identified above. Accordingly, the replacement of TS requirements by existing QATR requirements results in an [acceptable] level of regulatory control.

Therefore, the proposed changes do not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas S. O'Neill, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Richard B. Ennis (Acting).

AmerGen Energy Company, LLC, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI), Dauphin County, Pennsylvania

Date of amendment request: November 13, 2007.

Description of amendment request: The proposed amendment would delete the TMI Technical Specification (TS) 6.5, ''Review and Audit.'' Specifically, the proposed change would delete TS 6.5.1, ''Technical Review and Control,'' TS 6.5.2, ''Independent Safety Review Function,'' and TS 6.5.3, ''Audits'' which are currently being implemented by the Exelon/AmerGen Quality Assurance Topical Report. Additionally, the proposed amendment would correct typographical errors in the TMI Facility Operating License, the TS Table of Contents, and Figure 5–3 while providing more legible versions of Figure 3.1–2a, Figure 3.5–1, Figure 3.5–2, and Figure 3.5–3. Further, the proposed amendment would update the description of the installed spent fuel pool storage locations. This request for approval of a license amendment was submitted concurrently with a similar request for the Oyster Creek Nuclear Generating Station (Oyster Creek). Due to some differences in the requested changes, the Oyster Creek amendment request will be noticed separately.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

No physical changes to the facilities, OCNGS [Oyster Creek] and TMI, will occur as a result of this proposed amendment. The proposed changes will not alter the physical design or operational procedures associated with any plant structure, system, or component.

The proposed changes involve the deletion of several administrative requirements from the Technical Specifications (TS) that are now controlled under the Exelon/AmerGen Quality Assurance Topical Report (QATR) and several administrative procedures, AS–AA–102, [Station Qualified Review Program], HU–AA–1212 (Independent Third Party Reviews), LS–AA–101 (License/TS changes), LS–AA–106 (PORC), NO–AA–200–002 (Audits) and SY–AA–101–104 (Security Plan changes), and are, therefore, administrative in nature. The TS requirements involve Technical Review and Control and Audits. In accordance with the guidance provided in NRC Administrative Letter 95–06, ''Relocation of Technical Specification Administrative Controls related to Quality Assurance,'' the proposed changes are an acceptable method for removing technical specification quality assurance requirements.

The Independent Safety Review Function is being deleted because it is a redundant independent safety review to the existing independent review process being performed under the AmerGen/Exelon PORC.

The remaining proposed changes are administrative in nature and have no affect on plant operation. The changes do not reduce the duties and responsibilities of the organizations performing the technical review, independent safety review and audit functions essential to ensuring the safe operation of the plant.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are administrative in nature. The proposed changes do not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. Accordingly, the changes do not introduce any new accident initiators, nor do they reduce or adversely affect the capabilities of any plant structure, system, or component to perform their safety function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes conform to NRC regulatory guidance regarding the content of plant Technical Specifications. The guidance is presented in Administrative Letter 95–06, NUREG–1430[, ''Standard Technical Specifications—Babcock and Wilcox Plants,''] and NUREG–1433[, ''Standard Technical Specifications—General Electric Plants, BWR/4.''] The relocation of these administrative requirements and the deletion of a redundant independent safety review function will not reduce the [effectiveness of the] quality assurance commitments as accepted by the [Nuclear Regulatory Commission (NRC)], nor reduce administrative controls essential to the safe operation of the plant. Future changes to these administrative requirements will be performed in accordance with NRC regulation 10 CFR 50.54(a), consistent with the guidance identified above. Accordingly, the replacement of TS requirements by existing QATR requirements results in an [acceptable] level of regulatory control.

Therefore, the proposed changes do not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Bradley Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Richard B. Ennis (Acting).

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3 (IP3), Westchester County, New York

Date of amendment request: February 28, 2008.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) requirements related to the containment buffering agent used for pH control under post loss-of-coolant accident (LOCA) conditions. Specifically, the proposal would approve the use of sodium tetraborate (STB) as the buffering agent instead of the currently approved compound, sodium hydroxide (NaOH). The reason for this change in buffering agents is to minimize the potential for an adverse chemical interaction between the NaOH and certain insulation materials in the containment that could degrade flow through the sump screens following certain design-basis accident scenarios such as a LOCA.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment does not involve a significant increase in the probability of an accident previously evaluated because the containment buffering agent is not an initiator of any analyzed accident. The proposed change does not impact any failure modes that could lead to an accident.

The proposed amendment does not involve a significant increase in the consequences of an accident previously evaluated. The buffering agent in containment is designed to buffer the acids expected to be produced after a LOCA and is credited in the radiological analysis for iodine retention. Utilizing STB as a buffering agent ensures the post-LOCA containment sump mixture will have a pH ≥ 7.0. The proposed change of replacing sodium hydroxide with STB results in the radiological consequences remaining within the limits of 10 CFR 50.67. There is no dose change with the pH above 7.0.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. STB is a passive component that is proposed to be used at IP3 as a buffering agent to increase the pH of the initially acidic post-LOCA containment water to a more neutral pH. Changing the proposed buffering agent from sodium hydroxide to STB does not constitute an accident initiator or create a new or different kind of accident previously analyzed. The operation of the Containment Spray System remains the same with the isolation of the sodium hydroxide to the eductors because the flow path of the spray remains constant through the eductors. The proposed amendment does not involve operation of any required systems, structures or components in a manner or configuration different from those previously recognized or evaluated. No new failure mechanisms will be introduced by the changes being requested.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment does not involve a significant reduction in a margin of safety. The proposed amendment of changing the buffering agent from sodium hydroxide to STB results in equivalent control of maintaining sump pH at 7.0 or greater, thereby controlling containment atmosphere iodine and ensuring the radiological consequences of a LOCA are within regulatory limits. The change of buffering agent from NaOH to STB also reduces the amount of sodium aluminum silicate precipitate thereby reducing the overall amount of precipitate that may be formed in a postulated LOCA. The buffer change would minimize the potential chemical effects and should enhance the ability of the emergency core cooling system to perform the post-accident mitigating functions.

Therefore, the proposed amendment does not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Mark G. Kowal.

Nine Mile Point Nuclear Station, LLC, (NMPNS) Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1 (NMP1), Oswego County, New York

Date of amendment request: February 25, 2008.

Description of amendment request: The proposed amendment would revise NMP1 Technical Specification (TS) 3/4.4.4, ''Emergency Ventilation System,'' to remove the operability and surveillance requirements for the 10,000 watt heater located in the common supply inlet air duct for the Reactor Building Emergency Ventilation System (RBEVS). The proposed amendment would also revise TS 3/4.4.5, ''Control Room Air Treatment System,'' to reduce the 10-hour duration monthly system operational surveillance test requirement to a 15-minute run surveillance test requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The RBEVS and the CRAT [Control Room Air Treatment] System do not involve any initiators or precursors to an accident previously evaluated as the systems perform a mitigative function in response to an accident. Failure of the systems would result in the inability to perform their mitigative function but would not increase the probability of an accident previously evaluated. The RBEVS is designed to limit the release of radioactive gases to the environment such that resulting doses will be less than the guideline values of 10 CFR 50.67, ''Accident Source Term.'' The CRAT System is designed to minimize the amount of radioactivity or other gases from entering the control room in the event of an accident. Both the RBEVS and the CRAT System charcoal filter materials are tested in accordance with American Society for Testing and Materials (ASTM) D3803–1989, ''Standard Test Method for Nuclear-Grade Activated Carbon'' at a test temperature of 30° C [degrees Celsius] (86°F [degrees Fahrenheit]) while maintaining a relative humidity (RH) value of 95%. The testing method assures the ability of the charcoal filters to perform their intended function with or without the humidity control function provided by the 10 kW [kilowatt] heater. The filter efficiency values required by the TS test criteria provide a safety factor of 2, consistent with the recommendations of GL [Generic Letter] 99–02.

The previous NMP1 adoption of the more stringent ASTM D3803–1989 charcoal testing parameters resulted in the elimination for humidity control of inlet air in both the RBEVS and the CRAT system. Therefore, the need for a 10 hour duration monthly system operational surveillance test is no longer necessary to demonstrate reliability and proper function of the systems.

Therefore, these proposed changes do not alter the results of the accident dose consequence analyses and do not involve a significant increase in probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment of removing the RBEVS 10 kW common supply air inlet heater requirements and reducing the duration of the monthly system operational surveillance requirements from 10 hours to 15 minutes for both the RBEVS and the CRAT System will not involve placing the system in a new configuration or operating the system in a different manner that could result in a new or different kind of accident. Testing of the charcoal filter materials in accordance with ASTM D3803–1989 standard at a test temperature of 30° C (86° F) while maintaining a relative humidity 95% will continue to assure the ability of the system's charcoal filters to perform its intended function under potential higher inlet air RH values.

The previous NMP1 adoption of the more stringent ASTM D3803–1989 charcoal testing parameters resulted in the elimination of the need for humidity control of inlet air in both the RBEVS and the CRAT system. Therefore, a 10 hour duration monthly system operational surveillance test is no longer necessary to demonstrate reliability and proper function of the systems.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any [accident] previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment will not adversely affect the performance characteristics of either the RBEVS or the CRAT System, and will not affect the ability of either system to perform its intended function.

Testing of the charcoal filter materials in accordance with ASTM D3803–1989 and the test parameters required by the TS assures the ability of the charcoal filters to perform their intended function with or without the humidity control. The filter efficiency values required by the TS test criteria provide a safety factor of 2, consistent with the recommendations of GL 99–02.

The previous NMP1 adoption of the more stringent ASTM D3803–1989 charcoal testing parameters resulted in the elimination of the need for humidity control of inlet air in both the RBEVS and the CRAT system. Therefore, a 10 hour duration monthly system operational surveillance test is no longer necessary to demonstrate reliability and proper function of the systems.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006.

NRC Branch Chief: Mark G. Kowal.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 8, 2008.

Description of amendment request: The proposed amendment would revise Technical Specification 5.6.6, ''Reactor Coolant System (RCS) Pressure and Temperature Limits Report (PTLR),'' to update the method used to develop the RCS heatup and cooldown and Low Temperature Over Pressure (LTOP) limits utilizing current NRC approved methodology.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Integrity of the reactor vessel is integral to plant safety. It provides containment and continuity for the reactor core, and as part of the reactor coolant system acts as one of the three fission product barriers to the environment. The purpose of the heatup and cooldown limit curves and LTOP setpoints is to ensure vessel integrity through the spectrum of operating modes. Operating within those limits ensures that brittle failure of the vessel material does not occur due to the thermal and pressure stresses the vessel is subjected to during operation. During power operation, the effects of neutron radiation tend to change the characteristics of the vessel material making it more brittle. To compensate for this the operating limits must be periodically adjusted. The methodology being proposed in this submittal is designed to ensure vessel integrity, is analytically sound, and has been reviewed and approved by the NRC. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Due to its thickness and material properties, the reactor vessel is the limiting component for brittle fracture in the reactor coolant system. The proposed methodology appropriately limits the operating parameters to preclude the possibility of vessel failure. No new failure mechanisms or accident precursors are introduced as a result of this proposed change. Therefore, this change does not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed methodology in WCAP–14040–A, Methodology Used to Develop Cold Overpressure Mitigating System Setpoints and RCS Heatup and Cooldown Limit Curves, Revision 4, contains appropriate margin and has been reviewed and approved by the NRC. Since the new methodology for developing heatup and cooldown curves will produce less restrictive curves, use of the existing methodology for LTOP setpoints will continue to provide adequate margin to the [Title 10 of the Code of Federal Regulations, Part 50] Appendix G limits. Therefore, this proposed change does not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Generation Group, LLC, 750 East Pratt Street, 17th floor, Baltimore, MD 21202.

NRC Branch Chief: Mark G. Kowal.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Date of amendment request: February 25, 2008.

Brief description of amendment request: The proposed amendment would revise Technical Specification (TS) 5.5.9, ''Steam Generator (SG) Program,'' and TS 5.6.9, ''Steam Generator Tube Inspection Report.'' For TS 5.5.9, the amendment would replace the existing alternate repair criteria in the provisions for SG tube repair criteria during Braidwood Station (Braidwood), Unit 2, refueling outage 13 and the subsequent operating cycle. For TS 5.6.9, three new reporting requirements are proposed to be added to the existing seven requirements. The proposed changes only affect Braidwood, Unit 2; however, this is docketed for Braidwood, Units 1 and 2, because the TS are common to both units.

Date of publication of individual notice in ***Federal Register:*** March 11, 2008.

Expiration date of individual notice: April 11, 2008 (public comment); May 11, 2008 (hearing requests).

FPL Energy Seabrook LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: March 7, 2008.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Table 4.3–1, ''Reactor Trip System Instrumentation

Surveillance Requirements,'' to require the initial plateau curves to be measured within 24 hours after attaining 100 percent steady-state power. Currently, initial plateau curves are required to be taken within 24 hours of entry into Mode 2.

Date of publication of individual notice in ***Federal Register***: March 19, 2008 (FR 72 14850).

Expiration date of individual notice: April 18, 2008 (Public comment) and May 19, 2008 (Hearing requests).

Notice of Issuance of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: October 17, 2007, as supplemented by letter dated December 13, 2007.

Brief description of amendments: These amendments modify Technical Specification requirements for inoperable snubbers by adding Limiting Condition for Operation (LCO) 3.0.8. This operating license improvement was made available by the Nuclear Regulatory Commission on May 4, 2005 (70 FR 23252) as part of the consolidated line item improvement process. In addition, the amendments correct an omission to Amendment No. 282 and 259, issued on September 27, 2007, that adopted Technical Specification Task Force Traveler 427 by including a reference to LCO 3.0.9 in LCO 3.0.1.

Date of issuance: March 24, 2008.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment Nos.: Unit 1—285, Unit 2—262.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** November 20, 2007 (72 FR 65362) The letter dated December 13, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated March 24, 2008.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: March 19, 2007, as supplemented by letter dated August 16, 2007.

Brief description of amendment: The amendment revised the Technical Specification 3.8.1 entitled ''AC [Alternating Current] Sources-Operating'' to change the minimum Emergency Diesel Generator output voltage acceptance criterion from 3740 to 3873 volts. Specifically, the proposed change revised the Surveillance Requirements 3.8.1.2, 3.8.1.7, 3.8.1.10, 3.8.1.11, 3.8.1.14, and 3.8.1.17.

Date of issuance: March 17, 2008.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 178.

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** April 24, 2007 (72 FR 20379).

The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 17, 2008.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: April 12, 2007.

Brief description of amendments: The amendments revise technical specification requirements related to control room envelope habitability in accordance with Technical Specification Task Force Traveler TSTF–448, Revision 3, ''Control Room Habitability.''

Date of issuance: March 20, 2008.

Effective date: As of the date of issuance and shall be implemented within 180 days of the date of issuance.

Amendment Nos.: 226/218 and 238/233.

Renewed Facility Operating License Nos. DPR–19, DPR–25, DPR–29 and DPR–30: The amendments revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** June 5, 2007 (72 FR 31100) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 2008.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: November 20, 2007.

Brief description of amendments: The amendments revised the values of the safety limit minimum critical power ratio (SLMCPR) in Technical Specification (TS) Section 2.1.1, ''Reactor Core SLs.'' Specifically, the amendments deleted the Quad Cities Nuclear Power Station (QCNPS), Unit 2 fuel-specific SLMCPR requirements for Global Nuclear Fuel GE14 fuel and consolidated QCNPS SLMCPR requirements into a bounding dual-unit requirement.

Date of issuance: February 28, 2008.

Effective date: As of the date of issuance and shall be implemented prior to startup from the next refueling outage for QCNPS, Unit 2 (Q2R19), which is scheduled to start in March 2008.

Amendment Nos.: 237/232.

Renewed Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications and License.

*Date of initial notice in **Federal Register:*** December 18, 2007 (72 FR 71712) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 28, 2008.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–412, Beaver Valley Power, Station, Unit No. 2, Beaver County, Pennsylvania

Date of application for amendment: February 9, 2007, as supplemented by letters dated August 8, August 23, September 13, 2007, and January 25, 2008.

Brief description of amendment: The amendment will address Generic Safety Issue 191 ''Assessment of Debris Accumulation on PWR Sump Performance,'' by implementing Technical Specification (TS) changes that reflect the use of a new recirculation spray system pump start signal due to a modification to the containment sump screens and replace the use of LOCTIC with the Modular Accident Analysis Program-Design Basis Accident calculation methodology to calculate containment pressure, temperature, and condensation rates for input to the SWNAUA code, which ultimately changes the aerosol removal coefficients used in dose consequence analysis.

Date of issuance: March 11, 2008.

Effective date: As of the date of issuance, and shall be implemented prior to the first entry into Mode 4 coming out of 2R13, which begins April 2008.

Amendment No: 164.

Facility Operating License No. NPF–73: The amendment revised the License and TS.

*Date of initial notice in **Federal Register:*** April 24, 2007 (72 FR 20383). The supplements dated August 8, August 23, September 13, 2007, and January 25, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 2008.

No significant hazards consideration comments received: No.

FPL Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: September 14, 2007.

Brief description of amendment: This amendment consists of changes to the Technical Specifications in response to your application dated September 14, 2007, which requested revision to TS 3.3.2.1, ''Control Rod Block Instrumentation,'' Table 3.3.2.1–1, ''Control Rod Block Instrumentation,'' to modify a footnote such that a new Banked Position Withdrawal Sequence (BPWS) shutdown sequence could be utilized.

Date of issuance: March 20, 2008.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 268.

Facility Operating License No. DPR–49: The amendment revised the Technical Specifications and Facility Operating License.

*Date of initial notice in **Federal Register:*** December 4, 2007 (72 FR 68216).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 20, 2008.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: October 2, 2007, as supplemented by letters dated February 8, and March 11, 2008.

Brief description of amendments: The amendments revised Technical Specification 3.5.4, ''Refueling Water Storage Tank (RWST),'' and Surveillance Requirement 3.5.4.2, to increase the minimum required borated water volume from ''≥ 400,000 gallons (81.5% indicated level)'' to ''≥ 455,300 gallons.''

Date of issuance: March 26, 2008.

Effective date: As of its date of issuance and shall be implemented prior to Mode 4 entry following refueling outage 2R14.

Amendment Nos.: Unit 1—199; Unit 2—200.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register:*** December 31, 2007 (72 FR 74361). The supplemental letters dated February 8, and March 11, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 2008.

No significant hazards consideration comments received: No.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: October 17, 2007, as supplemented by letter dated December 13, 2007.

Brief description of amendment: The amendment revises Technical Specifications requirements for inoperable snubbers by adding Limiting Condition for Operation 3.0.8. This operating license improvement was made available by the Nuclear Regulatory Commission on May 4, 2005 (70 FR 23252) as part of the consolidated line item improvement process.

Date of issuance: March 19, 2008.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 104.

Renewed Facility Operating License No. DPR–18: Amendment revised the License and Technical Specifications.

*Date of initial notice in **Federal Register:*** November 20, 2007 (72 FR 65371) The letter dated December 13, 2007, provided additional information that clarified the application, did not

expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 19, 2008.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: February 8, 2007, as supplemented by letters dated July 24 and November 15, 2007, and February 19, 2008.

Brief description of amendments: The amendments incorporate changes which (1) revised Technical Specifications (TS) Surveillance Requirement (SR) 3.3.7.3.a to lower the allowable value for dropout and raise the allowable value for pickup of the degraded voltage function, and (2) revised TS SR 3.8.1 to lower the diesel generator minimum output voltage due to lower settings for the degraded voltage function.

Date of issuance: March 18, 2008.

Effective date: as of its date of issuance, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 2—216; Unit 3—208.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** March 27, 2007 (72 FR 14307). The supplemental letters dated July 24 and November 15, 2007, and February 19, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 18, 2008.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: March 30, 2007, as supplemented by letters dated November 5, 2007, and January 15 and February 19, 2008.

Brief description of amendments: The amendments revised Technical Specifications Surveillance Requirement 3.3.7.3.b, ''Loss of Voltage Function,'' to a narrower voltage band and lower operating time for channel calibration testing, by replacing the undervoltage relays with the reset time significantly lower.

Date of issuance: March 25, 2008.

Effective date: As of the date of its issuance and shall be implemented in the next refueling outage or unit outage of sufficient duration, whichever occurs first.

Amendment Nos.: Unit 2—217; Unit 3—209.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 24, 2007 (72 FR 20385). The supplemental letters dated November 5, 2007, and January 15 and February 19, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 25, 2008.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 21, 2007, as supplemented by letter dated November 26, 2007.

Brief description of amendments: The amendments revised the Technical Specifications Surveillance Requirement 4.5.2.d for the Emergency Core Cooling System sumps for consistency with the new sump design and configuration.

Date of issuance: March 25, 2008.

Effective date: As of its date of issuance and shall be implemented after completion of the corrective actions and modifications for resolution of Generic Safety Issue 191, ''Assessment of Debris Accumulation on PWR Sump Pump Performance.''

Amendment Nos.: Unit 1—183; Unit 2—170.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** July 31, 2007 (72 FR 41789). The supplemental letter dated November 26, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 25, 2008.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 14, 2007, as supplemented by letters dated September 12, October 16, and December 14 (two letters), 2007, and January 18, 2008.

Brief description of amendment: The amendment authorizes (1) the replacement of the main steam isolation valves (MSIVs) and main feedwater isolation valves (MFIVs) and (2) the use of Figures B 3.7.2–1 (MSIVs) and 3.7.3–1 (MFIVs) as the limiting closure times for these valves to demonstrate that these valves meet the limiting conditions for operation with respect to the valve closure time. The remaining amendment requests in the application that have not yet been addressed by the NRC are the proposed (1) addition of main feedwater regulating valves and bypass valves to TS 3.7.3, ''Main Feedwater Isolation Valves,'' and (2) modification of the main steam and feedwater isolation system (MSFIS) controls. These requests will be addressed in future letters to the licensee.

Date of issuance: March 21, 2008.

Effective date: As of its date of issuance and shall be implemented before entry into Mode 3 in the restart from Refueling Outage 16, which is to be conducted in the spring of 2008.

Amendment No.: 176.

Facility Operating License No. NPF–42. The amendment revises the license.

Date of initial notice in ***Federal Register:*** June 19, 2007 (72 FR 33785).

The supplemental letters dated September 12, October 16, and December 14 (two letters), 2007, and January 18, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 21, 2008.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-Filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/

requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.
2. Environmental—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.
3. Miscellaneous—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a petitioner/requestor seeks to adopt the contention of another sponsoring petitioner/requestor, the petitioner/requestor who seeks to adopt the contention must either agree that the sponsoring petitioner/requestor shall act as the representative with respect to that contention, or jointly designate with the sponsoring petitioner/requestor a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the Internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/ requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: March 5, 2008.

Description of amendment request: The amendments revise the surveillance requirements for Technical Specification (TS) 3/4.9.4, ''Containment Building Penetrations.''

Date of issuance: March 13, 2008.

Effective date: As of the date of issuance, to be implemented within 1 day.

Amendment Nos.: 288 and 272.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revise the TSs and the licenses.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes. Public notice of the proposed amendments was published in the *Today's Sunbeam* newspaper, located in Salem, New Jersey on March 11, 2008. The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated March 13, 2008.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Harold K. Chernoff.

Dated at Rockville, Maryland, this 28th day of March, 2008.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–6904 Filed 4–7–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of April 7, 14, 21, 28, May 5, 12, 2008.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 7, 2008

Monday, April 7, 2008

9:30 a.m. Briefing on Digital Instrumentation and Control (Public Meeting) (Contact: Steven Arndt, 301 415–6502).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

2:30 p.m. Discussion of Management Issues (Closed—Ex. 2).

Tuesday, April 8, 2008

10 a.m. Joint Meeting of the Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) (Public Meeting).

To be Held at FERC Headquarters, 888 First Street NE., Washington, DC. (Contact: Michelle Schroll, 301 415–1662).

This meeting will be webcast live at the Web address— *http://www.ferc.gov.*

Week of April 14, 2008—Tentative

There are no meetings scheduled for the Week of April 14, 2008.

Week of April 21, 2008—Tentative

There are no meetings scheduled for the Week of April 21, 2008.

Week of April 28, 2008—Tentative

Monday, April 28, 2008

9:30 a.m. Briefing on Reactor Materials Issues (Public Meeting) (Contact: Ted Sullivan, 301 415–2796).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

Tuesday, April 29, 2008—

1:30 p.m. Meeting with Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Ashley Tull, 918 488–0552).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

Wednesday, April 30, 2008—

9:30 a.m. Briefing on Materials Licensing and Security (Public Meeting) (Contact: Doug Broaddus, 301 415–8124).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

1:30 p.m. Periodic Briefing on New Reactor Issues (Public Meeting) (Contact: Robert Schaaf, 301 415–1312).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

Week of May 5, 2008—Tentative

There are no meetings scheduled for the Week of May 5, 2008.

Week of May 12, 2008—Tentative

Friday, May 16, 2008

9 a.m. Briefing on NRC Combined Infrastructure (Public Meeting). (Contact: Peter Rabideau, 301 415–7323).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http:// www.nrc.gov/about-nrc/policy-making/schedule.html.*

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Additional Information

The Briefing on NRC Combined Infrastructure (Public Meeting) previously scheduled on Wednesday, April 30, 2008, at 1:30 p.m. has been rescheduled on Friday, May 16, 2008, at 9 a.m.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator,

Rohn Brown, at 301–492–2279, TDD: 301–415–2100, or by e-mail at *REB3@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: April 3, 2008.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 08–1112 Filed 4–4–08; 10:27 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Office of New Reactors; Interim Staff Guidance; Limited Work Authorizations; Solicitation of Public Comment

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Solicitation of public comment.

SUMMARY: The NRC is soliciting public comment on its Proposed Interim Staff Guidance (ISG) COL/ESP–ISG–004. This ISG would replace the previous guidance issued in June 2007 in Regulatory Guide (RG) 1.206, ''Combined License Applications for Nuclear Power Plants (LWR Edition),'' concerning requests for limited work authorizations submitted as part of an early site permit or combined license application. Upon receiving public comments, the NRC staff will evaluate and disposition the comments, as appropriate. Once the NRC staff completes the COL/ESP–ISG, the staff will issue it for use. The NRC staff will also incorporate the approved COL/ESP–ISG–004 into the next revisions of the RG 1.206 and NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants,'' and related guidance documents.

Several sections of NUREG–1555, ''Environmental Standard Review Plan,'' (ESRP) are currently being revised; the public and industry have already commented on these revised sections. The NRC staff also plans to revise the rest of the ESRP sections over the next several months. The NRC staff plans to include any changes in the ESRP sections necessary for consistency with the revised LWA rule as part of that overall revision process. The NRC staff also plans to update Regulatory Guide 4.2, ''Preparation of Environmental Reports for Nuclear Power Stations,'' over the next several months. This update will also include any revisions necessary for consistency with the revised LWA rule.

DATES: Comments must be filed no later than 30 days from the date of publication of this notice in the **Federal Register**. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted to: Chief, Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments should be delivered to: 11545 Rockville Pike, Rockville, Maryland, Room T–6D59, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Persons may also provide comments via e-mail to *nrcrep.resource@nrc.gov.* The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *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 Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Nanette V. Gilles, Division of New Reactor Licensing, Office of the New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1180 or e-mail at *Nanette.Gilles@nrc.gov* or Mr. Richard Emch, Division of Site and Environmental Reviews, Office of the New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1590 or e-mail at *Richard.Emch@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC posts its issued staff guidance on the NRC external Web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*).

The NRC staff is issuing this notice to solicit public comments on the proposed COL/ESP–ISG–004. After the NRC staff considers any public comments, it will make a determination regarding the proposed COL/ESP–ISG–004.

Dated at Rockville, Maryland, this 31st day of March, 2008.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E8–7296 Filed 4–7–08; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57595; File No. SR–NASDAQ–2007–067]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of a Proposed Rule Change To Establish an Imbalance Cross

April 1, 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 July 18, 2007 The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. 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 the Substance of the Proposed Rule Change

Nasdaq has submitted a proposed rule change to establish a continuous crossing system. The text of the proposed rule change is available on Nasdaq's Web site (*http://www.nasdaq.com*), at Nasdaq's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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's efficient market structure allows the price of a security to change quickly in response to information and market demand. Allowing trading to react quickly is generally beneficial to investors. In some circumstances, however, abrupt and significant movements in the price at which a security is traded can be harmful to investors. In order to protect the integrity of the market, NASDAQ Rule 4120 authorizes Nasdaq Regulation to halt trading in a security based upon news or an emergency in the market. Nasdaq Regulation also has the ability under NASDAQ Rule 11890 to break trades in order to protect the integrity of the market.

In order to offer additional protection for investors, Nasdaq proposes to create the ''Imbalance Cross'' that will systematically suspend trading in Nasdaq-listed securities that are the subject of abrupt and significant intra-day price movements. The Imbalance Cross shares characteristics in common with trading halts initiated pursuant to Rule 4120 [3] as well as with the evaluation of potential clearly erroneous trades pursuant to Rule 11890.[4] It differs from and supplements these two processes in one material respect: The Imbalance Cross will be fully automated and will be based entirely on objective, quantitative criteria.

The Imbalance Cross will be triggered automatically when the execution price of a Nasdaq-listed security moves more than a fixed amount away from a pre-established ''reference price'' for that security. The Reference Price for each security will be the price of any execution by the System in that security within the prior 30 seconds. For each Nasdaq security, the System will continually compare the price of each execution against the prices of all executions in that security over the prior minute.

As the System compares current executions against executions occurring within the prior 30 seconds, it will determine whether the current execution price is outside a ''threshold range'' for that security. The Threshold Range for each security will be based upon the current execution price for that security and will vary by price. Specifically, for per-share execution prices of $1.75 or under, the Threshold Range will be 15 percent; for execution prices over $1.75 and up to $25, the Threshold Range will be 10 percent; for execution prices over $25 and up to $50, the threshold Range will be five percent; and for execution prices over $50, the Threshold Range will be three percent. These Threshold Ranges, generally correspond to the thresholds established for clearly erroneous trades under NASDAQ IM 11890–4 with the exception of executions priced under $1.75 which will be subject to a straightforward 15 percent threshold.

If the System determines that the execution price of a trade in a Nasdaq security exceeds the Threshold Range from the Reference Price, the System will automatically trigger the Imbalance Cross. When that occurs, the System will automatically cease executing trades in that security for a 60-second ''Display Only Period'' similar to the Display Only Period provided prior to the opening of a security subject to a trading halt initiated pursuant to Rule 4120. During that 60-second Display Only Period, the System will maintain all current quotes and orders and continue to accept new quotes and orders in that System Security. In order to provide transparency for the Imbalance Cross, the System will disseminate an Order Imbalance Indicator every 5 seconds as it does for the re-opening of securities that are the subject of a trading halt.

The Display Only Period for the Imbalance Cross will differ from the Display Only Periods for trading halts initiated pursuant to Rule 4120. Unlike a trading halt, the Imbalance Cross will not be considered a regulatory halt and, therefore, it will not trigger a marketwide trading halt under Section X of the Nasdaq UTP Plan. As a result, other markets will be permitted to continue trading a Nasdaq stock that is undergoing a Market Re-Opening on Nasdaq. During the Imbalance Cross, Nasdaq's quotations will be marked ''closed,'' signaling to other markets that quotes and orders routed to Nasdaq will not be executed. Nasdaq's Imbalance Cross trade will be reported to the network processor as a single-price re-opening that is exempt from trade through restrictions pursuant to Rule 611(b)(3)

At the conclusion of the 60-second Display Only Period, the System will automatically re-open the market by executing the Nasdaq Halt Cross as set forth in Rule 4753(b)(2)–(4) precisely as it does today for securities subject to a trading halt pursuant to Rule 4120. Unlike securities subject to a Rule 4120 trading halt, securities subject to an Imbalance Cross will automatically re-open at the end of the 60-second Display Only Period and that period will not be subject to further extensions.

The Imbalance Cross price will be set by the Nasdaq Halt Cross which, with one exception, will operate in the same manner as the Halt Cross operates when trading resumes following a trading halt initiated pursuant to Rule 4120. In other words, quotes and orders residing on the Nasdaq book during the Imbalance Cross will be subject to the same priorities and same execution algorithm that applies during the standard Halt Cross. Unlike the standard Halt Cross, Nasdaq proposes to ''bound'' the Imbalance Cross price as it does the Nasdaq Closing Cross (see Rule 4754(b)(2)(E)). As already exists for the Nasdaq Closing Cross, Nasdaq will establish a benchmark price and a threshold range beyond which the Imbalance Cross price cannot move.

Nasdaq believes that the proposed Imbalance Cross combines the best elements of its highly-effective Nasdaq Halt Cross, with the experience gathered in administering trading halts under Rule 4120 and the adjudication of potential clearly erroneous trades pursuant to Rule 11890. The Imbalance Cross will promote the protection of investors by providing a meaningful pause in the midst of abrupt and significant price movements while permitting trading to move freely in rapid and stable markets.

Nasdaq is proposing to establish the Imbalance Cross as a one-year pilot in order to ensure that it has sufficient flexibility to implement the proposal in a prudent manner. Nasdaq plans to implement the pilot with 100 representative securities which will be published on the nasdaqtrader.com Web site. Nasdaq will monitor the operation of the Imbalance Cross and, upon determining that circumstances warrant, Nasdaq will expand the pilot to cover additional securities. Should Nasdaq determine to modify the pilot to add additional securities to the initial list of 100, Nasdaq will post a notice on nasdaqtrader.com and provide sufficient time for members to prepare for such change. Nasdaq will attempt to determine within one year whether to expand the pilot permanently and to all securities traded on Nasdaq, in which case Nasdaq will file an additional proposed rule change seeking such approval.

b. Statutory Basis

[3] For a detailed description of the Nasdaq Halt Cross, *see* Securities Exchange Act Release No. 53488, 71 FR 14272 (March 16, 2006) (notice of filing of SR–NASD–2006–015).

[4] For a detailed description of the adjudication of potential clearly erroneous trades, *see* Securities Exchange Act Release No. 54854, 71 FR 71208 (Dec. 8, 2006) (notice of SR–NASDAQ–2006–046).

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Section 6(b)(5) of the Act,[6] in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, the Commission is interested in commenters' views with respect to whether Nasdaq's Imbalance Cross trade qualifies for the single-priced reopening exception under Rule 611(b)(3) of Reg. NMS. 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–2007–067 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–2007–067. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. 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–2007–067 and should be submitted on or before April 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7271 Filed 4–7–08; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, April 10, 2008 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3) (5), (7), (8), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting scheduled for April 10, 2008 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Regulatory matters regarding financial institutions;

Resolution of litigation claims; and an

Adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: April 3, 2008.

Nancy M. Morris,

Secretary.

[FR Doc. E8–7438 Filed 4–7–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57604; File No. SR–Amex–2008–27]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Pilot Program for the Allocation and Performance Evaluation Procedures for Securities Admitted to Dealings on an Unlisted Basis

April 2, 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 March 20, 2008, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks a one-year extension of its allocations and performance evaluation procedures for securities admitted to dealings on an unlisted trading privileges (''UTP'') basis to permit these pilot programs to remain in effect.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.amex.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to extend the pilot program for its allocations and performance evaluation procedures for securities admitted to dealings on a UTP basis (the ''Pilot Program'') from April 6, 2008 through and including April 6, 2009. The text of the rules would remain unchanged.

The Commission originally approved the Exchange's Pilot Program through two independent approval orders.[3] In 2003, the Pilot Program was subsequently extended through October 5, 2003[4] and April 5, 2004.[5] In 2004, the Pilot Program was extended through April 6, 2005.[6] In 2005, the program was extended through April 6, 2006.[7] In 2006, the Pilot Program was extended through April 6, 2007.[8] In 2007, the pilot was extended through April 6, 2008.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[10] in general and furthers the objectives of Section 6(b)(5)[11] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] *See* Securities Exchange Act Release Nos. 45698 (April 5, 2002), 67 FR 18051 (April 12, 2002) (SR–Amex–2001–107) and 46750 (October 30, 2002), 67 FR 67880 (November 7, 2002) (SR–Amex–2002–19).

[4] *See* Securities Exchange Act Release No. 47779 (May 1, 2003), 68 FR 24777 (May 8, 2003).

[5] *See* Securities Exchange Act Release No. 48657 (October 17, 2003), 68 FR 61025 (October 24, 2003).

[6] *See* Securities Exchange Act Release No. 49613 (April 26, 2004), 69 FR 24204 (May 3, 2004).

[7] *See* Securities Exchange Act Release No. 52004 (July 8, 2005), 70 FR 41061 (July 15, 2005).

[8] *See* Securities Exchange Act Release No. 53649 (April 13, 2006), 71 FR 20425 (April 20, 2006).

[9] *See* Securities Exchange Act Release No. 55602 (April 9, 2007), 72 FR 18698 (April 13, 2007).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and Rule 19b–4(f)(6) thereunder[13] because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.[14]

Amex has requested that the Commission waive the 30-day operative delay pursuant to Rule 19b–4(f)(6)(iii).[15] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption. Therefore, the Commission designates the proposal to be operative upon filing with the Commission.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] Rule 19b–4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designed by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Amex–2008–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2008–27. 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–Amex–2008–27 and should be submitted on or before April 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7311 Filed 4–7–08; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57602; File No. SR–CBOE–2008–35]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Class Quoting Limit in One Option Class

April 2, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 28, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase the class quoting limit in one option class. The text of the proposed rule change is available on CBOE's Web site (*http://www.cboe.org/legal*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rule 8.3A, Maximum Number of Market Participants Quoting Electronically per Product, establishes class quoting limits (''CQLs'') for each class traded on the Hybrid Trading System or Hybrid 2.0 Platform.[5] A CQL is the maximum number of quoters that may quote electronically in a given product and Rule 8.3A, Interpretation .01(a) provides that the current levels are generally established at 50.

In addition, Rule 8.3A, Interpretation .01(b) provides a procedure by which the President of the Exchange may increase the CQL for an existing or new product. In this regard, the President of the Exchange may increase the CQL in exceptional circumstances, which are defined in the rule as ''substantial trading volume, whether actual or expected.''[6] The effect of an increase in the CQL is procompetitive in that it increases the number of market participants that may quote electronically in a product. The purpose of this filing is to increase the CQL in the option class Visa, Inc. (V) from its current limit of 60 to 70.[7]

CBOE anticipates that there will be substantial trading volume in this class. In addition, increasing the CQL to 70 will accommodate Market-Makers that are currently on the wait-list to be appointed to the option class. Increasing the CQL in this option will enable the Exchange to enhance the liquidity offered, thereby offering deeper and more liquid markets. Lastly, CBOE represents that it has the systems capacity to support this increase in the CQL.

2. Statutory Basis

Accordingly, CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] *See* Rule 8.3A.01.

[6] ''Any actions taken by the President of the Exchange pursuant to this paragraph will be submitted to the SEC in a rule filing pursuant to Section 19(b)(3)(A) of the Exchange Act.'' Rule 8.3A.01(b).

[7] CBOE recently increased the CQL in V from 50 to 60. *See* Securities Exchange Act Release No. 57582 (March 31, 2008) (SR–CBOE–2008–34).

[8] 15 U.S.C. 78(f)(b).

consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. As indicated above, the Exchange believes that increasing the CQL in these options will enable the Exchange to enhance the liquidity offered, thereby offering deeper and more liquid markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither received nor solicited written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act[10] and Rule 19b–4(f)(1) thereunder,[11] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–35 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–2008–35. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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–2008–35 and should be submitted on or before April 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7272 Filed 4–7–08; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78(f)(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 CFR 240.19b–4(f)(1).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57601; File No. SR–NYSE–2008–22]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Moratorium on the Qualification and Registration of New Registered Competitive Market Makers and New Competitive Traders, Governed by NYSE Rules 107A and 110, Respectively, for an Additional Three Months

April 2, 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 March 26, 2008, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for three months the moratorium related to the qualification and registration of Registered Competitive Market Makers (''RCMMs''), pursuant to Exchange Rule 107A, and Competitive Traders (''CTs''), pursuant to Exchange Rule 110 (''Moratorium''). The text of the proposed rule change is available at *http://www.nyse.com*, the NYSE, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[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

The Exchange proposes to extend for three months the current Moratorium related to the qualification and registration of RCMMs, pursuant to Exchange Rule 107A, and CTs, pursuant to Exchange Rule 110.

On September 22, 2005, the Exchange filed SR–NYSE–2005–63 [3] with the Commission proposing to implement a moratorium on the qualification and registration of new RCMMs and CTs. The purpose of the Moratorium was to allow the Exchange an opportunity to review the viability of RCMMs and CTs in the NYSE HYBRID MARKET SM (''Hybrid Market'').[4]

During each phase of the Hybrid Market, new system functionality was included in the operation of Exchange systems, and new data was generated. As a result, the Exchange was unable to make an informed decision as to the viability of RCMMs and CTs in the Hybrid Market. The phased-in implementation of the Hybrid Market required the Exchange to extend the Moratorium an additional five times over the next twenty-one (21) months.[5]

The Exchange is now proposing to extend the Moratorium, as amended,[6] for an additional three months to June 30, 2008 in order to finalize its determination as to the roles of RCMMs and CTs in the Exchange's Hybrid Market and to formally submit a proposal to the Commission outlining the role, if any, these classes of traders have in the Exchange's evolving market.

The Exchange continues to review the data related to RCMMs' and CTs' current trading on the NYSE. Nevertheless, the Exchange is currently undergoing significant developments in its technology and its market model. Accordingly, the Exchange requests additional time to decide what roles, if any, RCMMs and CTs should perform in the evolving market model.

The Exchange will issue an Information Memo announcing the extension of the Moratorium.

2. Statutory Basis

The basis under the Act [7] for this proposed rule change is the requirement under Section 6(b)(5) [8] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange is currently reviewing the data related to RCMMs and CTs to evaluate its trading volume in the current, more electronic market. Since it is undergoing significant developments in its technology and its market model, the Exchange believes that an extension of time to finalize its determination of what, if any, roles the RCMMs and CTs will play in this evolving marketplace could potentially remove impediments to, and better improve, the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NYSE has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Moratorium to continue without interruption so that the Exchange may have additional time to make a final determination as to the future roles of RCMMs and CTs in the Hybrid Market, if any, and to file with the Commission a proposed rule change outlining such roles. For these reasons, the Commission designates that the proposed rule change become operative immediately.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[3] *See* Securities Exchange Act Release No. 52648 (October 21, 2005), 70 FR 62155 (October 28, 2005) (SR–NYSE–2005–63).

[4] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR–NYSE–2004–05) (establishing the Hybrid Market).

[5] *See* Securities Exchange Act Release Nos. 54140 (July 13, 2006), 71 FR 41491 (July 21, 2006) (SR–NYSE–2006–48); 54985 (December 21, 2006), 72 FR 171 (January 3, 2007) (SR–NYSE–2006–113); 55992 (June 29, 2007), 72 FR 37289 (July 9, 2007) (SR–NYSE–2007–57); 56556 (September 27, 2007), 72 FR 56421 (October 3, 2007) (SR–NYSE–2007–86); and 57072 (December 31, 2007), 73 FR 1252 (January 7, 2008) (SR–NYSE–2007–125).

[6] *See* Securities Exchange Act Release No. 53549 (March 24, 2006), 71 FR 16388 (March 31, 2006) (SR–NYSE–2006–11) (making certain amendments to the Moratorium).

[7] 15 U.S.C. 78a.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement. The Commission has determined to waive this requirement to allow the Exchange to file its proposal to extend the Moratorium, which expires on March 31, 2008, without delay.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–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–NYSE–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, on official business days between the hours of 10 a.m and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–22 and should be submitted on or before April 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7308 Filed 4–7–08; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57603; File No. SR–NYSEArca–2007–104]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Listing Standards for Warrants, Rights, and Units

April 2, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 3, 2007, 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, II, and III below, which Items have been substantially prepared by the Exchange. On March 27, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rules 5.2(f) and 5.5(e), which relate to the Exchange's initial and continued listing standards for warrants, to apply such standards to rights to purchase listed securities. In addition, the Exchange proposes to adopt new NYSE Arca Equities Rule 5.2(k) which relate to listing requirements for Units.[3] 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 240.19b–4.

[3] ''Units'' are defined as paired securities which may be transferred and traded only in combination with one another as a single economic unit. *See* NYSE Arca Equities Rule 5.1(b)(20). Currently, the Exchange has continued listing standards for Units in NYSE Arca Equities Rule 5.5(a), which references NYSE Arca Equities Rules 5.5(b)–(e). NYSE Arca Equities Rules 5.5(b)–(e) relate to the continued listing requirements for common stock and common stock equivalent securities, preferred stock and secondary classes of common stock, bonds and debentures, and warrants, respectively. *See* NYSE Arca Equities Rules 5.5(b)–(e). *See also infra* note 8.

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: (1) Amend NYSE Arca Equities Rules 5.2(f) and 5.5(e), the Exchange's initial and continued listing standards for warrants, to apply such standards to rights to purchase securities;[4] and (2) adopt new NYSE Arca Equities Rule 5.2(k) to add listing standards for Units. The Exchange states that the proposed rule changes herein are modeled upon the rules of The NASDAQ Stock Market LLC (''Nasdaq'').[5]

Listing Standards for Warrants and Rights

Currently, NYSE Arca Equities Rule 5.2(f) addresses the Exchange's initial listing standards for warrants. The Exchange proposes to add rights to this Rule and apply these same initial listing standards to both warrants and rights to purchase securities.[6] As is the case for

[4] The initial and continued listing standards for warrants under NYSE Arca Equities Rules 5.2(f) and 5.5(e), respectively, were approved by the Commission in 1994. *See* Securities Exchange Act Release No. 34429 (July 22, 1994), 59 FR 38998 (August 1, 1994) (SR–PSE–93–12) (approving quantitative and qualitative listing standards with respect to common stock, preferred stock, bonds and debentures, warrants, contingent value rights, and other securities).

[5] The Exchange states that Nasdaq's initial listing standards for warrants and rights are set forth in Nasdaq Rule 4420(d), and its continued listing standards for warrants and rights are set forth in Nasdaq Rule 4450(d). In addition, Nasdaq's initial listing standards for units are set forth in Nasdaq Rule 4420(h). The Exchange also states that the proposal regarding the listing standards for Units are based, in part, on provisions contained in the *Company Guide* of the American Stock Exchange LLC (''Amex''). *See infra* note 11.

[6] The Exchange states that Nasdaq made a similar change to its rule, which is now contained in Nasdaq Rule 4420(d). *See* Securities Exchange Act Release No. 43435 (October 11, 2000), 65 FR 62779 (October 19, 2000) (SR–NASD–99–69) (approving, among other things, the inclusion of rights in the initial listing standards for warrants).

warrants, at least 500,000 rights must be publicly held by not less than 250 public beneficial holders under NYSE Arca Equities Rule 5.2(f)(1), as amended. The purpose for this change is to allow the Exchange to list rights so that it can offer investors more investment options, while also remaining competitive in the marketplace.

Currently, NYSE Arca Equities Rule 5.2(f)(2) provides, in part, that the Exchange will not list warrants unless the common stock of the company or other security underlying the warrants is already listed (and meets the pertinent continued listing requirements) or will be listed on the Exchange concurrently with the warrants. The Exchange proposes to amend NYSE Arca Equities Rule 5.2(f)(2) to provide that the common stock of the company or other security underlying the warrants and rights must be listed and trading (and meets the pertinent continued listing standards), or will be listed and trading, on a national securities exchange concurrently with the listing and trading of warrants or rights, as applicable. The Exchange notes that it would not list a warrant or right if the security underlying such warrant or right is no longer trading or is subject to a trading halt, as imposed by the national securities exchange listing such underlying security. Therefore, the Exchange believes that investors would remain protected.

Currently, NYSE Arca Equities Rule 5.5(e) addresses the continued listing of warrants on the Exchange. NYSE Arca Equities Rule 5.5(e) states that, for continued listing, the common stock of the company or other security underlying the warrants must meet the applicable Tier I maintenance requirements. The Exchange proposes to amend this Rule so that such continued listing standard would apply to both warrants and rights to purchase listed securities.[7] As is the case with the proposal to add rights to the initial listing standards, the purpose for this change is to allow the Exchange to list rights so that it can offer investors more investment options, while also remaining competitive in the marketplace.

As stated above, NYSE Arca Equities Rule 5.5(e) provides, in pertinent part, that the underlying common stock of the company or other security must meet the applicable Tier I maintenance requirements under NYSE Arca Equities Rule 5.5. The Exchange proposes to amend this language to state that, in the case of warrants and rights, the common stock of the company or other security underlying the warrants or rights, as applicable, must continue to be listed on a national securities exchange. The Exchange believes that, as long as the security underlying warrants and rights satisfies the listing standards of another national securities exchange and are otherwise in good standing for trading, investors would be able to obtain additional investment options and, at the same time, remain protected. The Exchange also proposes this change to simplify the continued listing standards under NYSE Arca Equities Rule 5.5(e) and ensure that the issuer of an underlying security is listed on a national securities exchange, in the interest of protecting investors.

Listing Standards for Units

Currently, the Exchange has no separate initial quantitative listing standards for Units, although it does have a definition and continued listing standards for Units.[8] The Exchange proposes to adopt initial listing standards for Units under proposed NYSE Arca Equities Rule 5.2(k). The Exchange states that the proposed standards are substantially similar to those under Nasdaq Rule 4420(h).[9]

In particular, under proposed NYSE Arca Equities Rule 5.2(k), all Units must have at least one equity component and that all components must meet the initial and continued listing standards in NYSE Arca Equities Rules 5.2(k) and 5.5 (a)–(e), as applicable, or in the case of debt components, meet certain specified criteria including: (1) An aggregate market value or principal amount of at least $5 million; (2) a requirement that the issuer of the debt security have equity securities that are listed on a national securities exchange; and (3) in the case of convertible debt, limitations on changes to conversion prices, subject to an exception, and a real-time last sale reporting requirement for the equity security into which the debt is convertible.[10] In addition, all components of the Unit must be issued by the same issuer, and all Units and issuers of such Units must comply with the initial and continued listing standards of NYSE Arca Equities Rules 5.2(k) and 5.5(a)–(e), as applicable.

The Exchange also proposes that Units be subject to a minimum listing period of 30 days from the first day of listing, except that the period may be shortened if the Units are suspended or withdrawn for regulatory purposes. Issuers and underwriters seeking to withdraw Units from listing must provide the Exchange with notice of such intent at least 15 days prior to withdrawal. Accordingly, the Exchange believes that these provisions will provide investors a meaningful period of time to react to the withdrawal of the Unit from listing and trading.

Under proposed NYSE Arca Equities Rule 5.2(k)(3), each issuer of Units must include in its prospectus or other offering document used in connection with any offering of securities that is required to be filed with the Commission under the federal securities laws and the rules and regulations thereunder a statement regarding any intention to delist the Units immediately after the minimum inclusion period referenced above. In addition, an issuer of a Unit would be required to provide information regarding the terms and conditions of the components of the Unit, the ratio of the components comprising the Unit, and when a component of the Unit is separately listed on an exchange on the issuer's Internet Web site, or if it does not maintain a Web site, in its annual report provided to Unit holders. Further, an issuer would be required to immediately publicize through, at a minimum, a public announcement through the news media, any change in the terms of a listed Unit, such as changes to the terms and conditions of any of the components or to the ratio of components within the Unit. The Exchange believes that this heightened disclosure requirement is appropriate to ensure that sufficient information regarding the attributes of these securities is publicly available on a timely basis.

The Exchange also proposes to add language clarifying the applicability of certain continued listing standards relating to components of Units that

[7] The Exchange states that Nasdaq's continued listing standards for warrants also apply to rights, as set forth in Nasdaq Rule 4450(d).

[8] *See supra* note 3. NYSE Arca Equities Rule 5.5(a) states that, in the case of Units, the Exchange will normally consider suspending dealings in or delisting if any of the component parts do not meet the applicable listing standards as set forth in NYSE Arca Equities Rules 5.5(b)–(e). If one or more of the components is otherwise qualified for listing, that component may remain listed. Where all component parts of a Unit do not meet the applicable listing standards as set forth in NYSE Arca Equities Rules 5.5(b)–(e), the Unit will be delisted from the Exchange.

[9] *See* Nasdaq Rule 4420(h). *See also* Securities Exchange Act Release No. 49746 (May 20, 2004), 69 FR 30356 (May 27, 2004) (SR–NASD–2004–81) (approving listing standards for units).

[10] The Exchange notes that real-time last sale reporting must be available for the underlying equity security, and it will not be sufficient that the Unit containing such equity security be subject to last sale reporting.

have separated.[11] The Exchange states that, when Units in good standing begin to separate into their component securities, the remaining Units that are still intact and the components of those Units which have separated may all be separately listed and continue to trade, provided that they meet the applicable continued listing standards. The proposal specifies that, in determining whether an individual component meets the applicable distribution requirements specified in the continued listing standards, the Units that are intact and freely separable into their component parts will be counted toward the total numbers required for continued listing of the component. For example, if 1,000,000 shares of common stock are publicly held after separation from their Units, and 500,000 intact and freely separable Units are publicly held, the common stock would be credited with having 1,500,000 shares publicly held, enabling it to meet the publicly held shares requirement for common stock, which requires at least 1,100,000 shares of common stock to be publicly held.[12] If the Units are no longer freely separable and/or listed on the Exchange, the separately-traded components would still be required to meet their applicable continued listing standards.

Despite the fact that the aggregated distribution values satisfy the continued listing distribution standards, under the proposal, the Exchange would also consider suspending trading in, or removing from listing, an individual component or Unit when, in the opinion of the Exchange, the public distribution or aggregate market value of such component or Unit becomes so reduced as to make continued listing on the Exchange inadvisable. In its review of the advisability of the continued listing of an individual component or Unit under such circumstances, the Exchange proposes to take into account the trading characteristics of the component or Unit and whether it would be in the public interest for trading in such component or Unit to continue.

The Exchange states that it will halt or suspend trading in the Units or rights, as the case may be, when the underlying security is halted on the relevant national securities exchange. In addition, for Units and rights that are listed on the Exchange and based upon an underlying security listed on another national securities exchange, the Exchange represents that it will monitor Units and rights under the Exchange's applicable continued listing standards.

As is the case with the initial and continued listing standards for rights, the Exchange states that the purpose for the proposed initial listing standards for Units is to allow the Exchange to list Units so that it can offer investors more investment options, while also remaining competitive in the marketplace.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act,[13] which states that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change will facilitate the listing and trading of rights and Units that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in the proposal are intended 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 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2007–104 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–2007–104. 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 1 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–2007–104 and should be submitted on or before April 29, 2008.

[11] The Exchange states that its proposal to clarify the applicability of listing standards relating to components of Units that have separated is modeled upon Section 1003(g)(ii) and (iii) of the Amex *Company Guide. See* Securities Exchange Act Release No. 55675 (April 26, 2007), 72 FR 24638 (May 3, 2007) (SR–Amex–2006–114) (approving amendments to listing standards for units).

[12] *See* NYSE Arca Equities Rule 5.5(b)(1).

[13] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7309 Filed 4–7–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57608; File No. SR–Phlx–2008–22]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 Thereto, Relating to Floor Broker Charge and Specialist Unit Credit in Connection With Linkage P/A Orders

April 2, 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 March 12, 2008, Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On April 1, 2008, Phlx submitted Amendment No. 1 to the proposed rule change. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to charge floor brokers an amount equal to the transaction fee(s) assessed on options specialist units by another exchange in connection with customer orders that are delivered to the limit order book via the Exchange's Options Floor Broker Management System (''FBMS'')[5] and subsequently executed via the Intermarket Option Linkage (''Linkage'')[6] as a Principal Acting as Agent (''P/A'') order.[7] The Exchange also proposes to provide to options specialist units a credit in an amount equal to the transaction fee(s) assessed on them by another exchange in connection with executing customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A orders.

While changes to the fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated the changes to be in effect for transactions settling on or after March 17, 2008, through July 31, 2008.[8] The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and *http://www.phlx.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to charge floor brokers an amount equal to the transaction fee(s)[9] assessed on options specialist units by another exchange in connection with customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A orders. The Exchange also proposes to provide to options specialist units a credit in an amount equal to the transaction fee(s) assessed on them by another exchange in connection with executing customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A orders.

The purpose of this proposal is to assist specialist units in offsetting the costs they incur in routing orders to other exchanges in order to obtain the National Best Bid or Offer (''NBBO''). By giving a corresponding credit to specialist units who bear the direct costs of routing these orders, the Exchange believes that the undue financial burden of multiple transaction charges imposed on Exchange specialist units in connection with orders that are executed at an away market will be lessened. Additionally, the purpose of assessing a fee on floor brokers who send customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A orders is to more equitably assess the applicable transaction fee(s) on the member originally entering the order to be executed. Floor brokers may choose to route these orders through other systems and not place such orders on the limit order book.

The Exchange represents that when members do not want an order to be routed away through Linkage (thereby avoiding the transaction fees discussed above), that member may mark the order with an Immediate or Cancel (''IOC'') designation. IOC orders are not routed to other market centers. Instead, if they cannot be executed on Phlx, they are cancelled.

While changes to the fee schedule pursuant to this proposal were effective upon filing, the Exchange designated the changes operative for trades settling

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] FBMS is designed to enable floor brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. FBMS also is designed to establish an electronic audit trail for options orders represented and executed by floor brokers on the Exchange such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations, and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. *See* Exchange Rule 1080, Commentary .06.

[6] Linkage is governed by the Options Linkage Authority under the conditions set forth under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage Plan''). The registered U.S. options markets are linked together on a real-time basis through a network capable of transporting orders and messages to and from each market.

[7] A P/A order is an order for the principal account of a specialist (or equivalent entity on another participant exchange that is authorized to represent public customer orders), reflecting the terms of a related unexecuted public customer order for which the specialist is acting as agent. *See* Linkage Plan Section 2(16)(a) and Exchange Rule 1083.

[8] This proposal is scheduled to be in effect for the same time period as fees for Linkage Principal and P/A orders. *See* Securities Exchange Act Release No. 56166 (July 30, 2007), 72 FR 43312 (August 3, 2007) (SR–Phlx–2007–52).

[9] Transaction fees do not include fees assessed by The Options Clearing Corporation or the Covered Sales Fee. The Covered Sale Fee is assessed on Phlx members in connection with the sales of securities on the Exchange with respect to which Phlx is obligated to pay a fee to the Commission under Section 31 of the Act. Other exchanges refer to this fee by different names.

on or after March 17, 2008 through July 31, 2008.[10]

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(4) of the Act,[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members. The Exchange believes that assessing a fee on floor brokers and giving a corresponding credit to specialist units as described herein allows for the transaction fee(s) to be assessed on the member who submits the order and for the credit to be given to the specialist unit that routed the order to another exchange in order to obtain the NBBO.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii)[13] of the Act and Rule 19b–4(f)(2)[14] thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the Exchange. 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.[15]

[10] *See supra* note 8.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

[15] For purposes of calcualting the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on April 1, 2008, the date the Exchange filed Amendment No. 1 to the proposed rule change. *See* 15 U.S.C. 78s(b)(3)(C).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2008–22 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–Phlx–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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2008–22 and should be submitted on or before April 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7312 Filed 4–7–08; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 22 existing Small Business Development Centers (SBDCs) for refunding on October 1, 2008, subject to the availability of funds. Nine states do not participate in the EO 12372 process; therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

ADDRESSES:

Addresses of Relevant SBDC State Directors

Mr. Al Salgado, Regional Director, Univ. of Texas at San Antonio, 501 West Durango Blvd., San Antonio, TX 78207, (210) 458–2450.

Mr. Clinton Tymes, State Director, University of Delaware, One Innovation Way, Suite 301, Newark, DE 19711, (302) 831–2747.

Ms. M.E. Gamble, State Director, West Virginia Development Office, Capitol Complex, Building 6, Room 652, Charleston, WV 25301, (304) 558–2960.

Ms. Carmen Marti, SBDC Director, Inter American University of Puerto Rico, Ponce de Leon Avenue, #416, Edificio Union Plaza, Seventh Floor, Hato Rey, PR 00918, (787) 763–6811.

Mr. Michael Young, Regional Director, University of Houston, 2302 Fannin, Suite 200, Houston, TX 77002, (713) 752–8425.

Ms. Liz Klimback, Region Director, Dallas Community College, 1402 Corinth Street, Dallas, TX 75212, (214) 860–5835.

Mr. Craig Bean, Region Director, Texas Tech University, 2579 South Loop 289, Suite 114, Lubbock, TX 79423–1637, (806) 745–3973.

Ms. Becky Naugle, State Director, University of Kentucky, 225 Gatton College of Business Economics, Lexington, KY 40506–0034, (859) 257–7668.

Ms. Rene Sprow, State Director, Univ. of Maryland @ College Park, 7100 Baltimore Avenue, Suite 401, Baltimore, MD 20742–1815, (301) 403–8300.

Ms. Leonor Dottin, SBDC Director, University of the Virgin Islands, 8000 Nisky Center, Suite 720, St. Thomas, USVI 00802–5804, (340) 776–3206.

Mr. Max Summers, State Director, University of Missouri, 1205 University Avenue, Suite 300, Columbia, MO 65211, (573) 882–1348.

Ms. Lenae Quillen-Blume, State Director, Vermont Technical College, P.O. Box 188, Randolph Center, VT 05061–0188, (802) 728–9101.

Mr. Jim Heckman, State Director, Iowa State University, 340 Gerdin Business Building, Ames, IA 50011–1350, (515) 294–2037.

FOR FURTHER INFORMATION CONTACT: Antonio Doss, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Sixth Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) Increase economic growth;

(c) Assist more small businesses; and

(d) Broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each service center.

Dated: April 2, 2008.

Antonio Doss,

Associate Administrator for Small Business Development Centers.

[FR Doc. E8–7263 Filed 4–7–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before June 9, 2008

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW., 8th floor, Wash., DC 20416

FOR FURTHER INFORMATION CONTACT: Sandra Johnston, Program Analyst, Office of Financial Assistance, 202–205–7528 *sandra.johnston@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*

SUPPLEMENTARY INFORMATION: SBA Form 159 is used by 7(a) lenders, Certified Development companies, and applicants for 7(a), 504 loans and SBA disaster loans. The information collected is used by SBA to establish that there is no appearance of unlawful or unethical activity by agents, loan packagers and others who receive compensation in exchange for representing the applicants for an SBA business or disaster loan. SBA uses the information collected on Form 160 and 160A to establish the applicant's legal authority to enter into the loan transaction.

Title: ''Compensation Agreement; Resolution of Board of Directors, and Certificate as to Partners''.

Description of Respondents: 7(A) Participants.

Form Numbers: 159(7a), 159(504), 159D, 160, 160A.

Annual Responses: 27,753.

Annual Burden: 2,558.

SUPPLEMENTARY INFORMATION: This collection is used to obtain immediate repayment or arrive at a satisfactory arrangement for future repayment of debts to the Government.

Title: ''Statement of Debtor''.

Description of Respondents: SBA Borrowers of guarantor's who request compromise.

Form Number: 770.

Annual Responses: 5,000.
Annual Burden: 2,500.

SUPPLEMENTARY INFORMATION: This collection is used to certify use of loan proceeds, appoint a servicing agent and acknowledge the imposition of various fees.

Title: ''Servicing Agent Agreement''.
Description of Respondents: Certified Development Companies and SBA Borrowers.
Form Number: 1506.
Annual Responses: 15,516.
Annual Burden: 15,516.

SUPPLEMENTARY INFORMATION: Prime is a grant program utilizing not for profit Microenterprise Development Organizations (MDOs). Provides training and technical assistance to disadvantaged and very-low income entrepreneurs.

Title: ''PRIME (Program for Investment in Microentrepreneurs)''.
Description of Respondents: Disadvantaged Microentrepreneurs.
Form Number: N/A.
Annual Responses: 156.
Annual Burden: 312.

Jacqueline White,
Chief, Administrative Information Branch.
[FR Doc. E8–7262 Filed 4–7–08; 8:45 am]
BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11176 and #11177]

Alabama Disaster Number AL–00012

AGENCY: U.S. Small Business Administration.
ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative declaration of a major disaster for the State of Alabama, dated 02/21/2008.

Incident: Severe Storm and Tornadoes.
Incident Period: 02/05/2008 through 02/06/2008.
Effective Date: 04/01/2008.
Physical Loan Application Deadline Date: 06/20/2008.
EIDL Loan Application Deadline Date: 11/21/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of an Administrative declaration for the State of Alabama, dated 02/21/2008 is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Jackson.
Contiguous Counties: Alabama:
Dekalb, Madison, Marshall.
Georgia:
Dade.
Tennessee:
Franklin, Marion.

The notice of an Administrative declaration for the State of Alabama is also amended to extend the deadline for filing applications for physical damages as a result of this disaster to 06/20/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 1, 2008.

Steven C. Preston,
Administrator.
[FR Doc. E8–7362 Filed 4–7–08; 8:45 am]
BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11079 and #11080]

California Disaster Number CA–00074

AGENCY: U.S. Small Business Administration.
ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of California (FEMA–1731–DR), dated 10/24/2007.

Incident: Wildfires, Flooding, Mud Flows, and Debris Flows directly related to the Wildfires.
Incident Period: 10/21/2007 and continuing through 03/31/2008.
Effective Date: 03/31/2008.
Physical Loan Application Deadline Date: 01/09/2008.
EIDL Loan Application Deadline Date: 07/24/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of California, dated 10/24/2007 is hereby amended to establish the incident period for this disaster as beginning 10/21/2007 and continuing through 03/31/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.
[FR Doc. E8–7374 Filed 4–7–08; 8:45 am]
BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11198]

Kentucky Disaster Number KY–00014

AGENCY: U.S. Small Business Administration.
ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–1746–DR), dated 02/21/2008.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.
Incident Period: 02/05/2008 through 02/06/2008.
Effective Date: 04/01/2008.
Physical Loan Application Deadline Date: 04/21/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated 02/21/2008, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Harrison, Nicholas.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.
[FR Doc. E8–7376 Filed 4–7–08; 8:45 am]
BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11203 and #11204]

Missouri Disaster Number MO–00025

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1749–DR), dated 03/27/2008.

Incident: Severe Storms and Flooding.

Incident Period: 03/17/2008 and continuing.

Effective Date: 04/01/2008.

Physical Loan Application Deadline Date: 05/27/2008.

EIDL Loan Application Deadline Date: 12/23/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Missouri, dated 03/27/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Butler, Callaway, Cape Girardeau, Gasconade, Howard, Laclede, Madison, Mcdonald, Osage, Ripley, Scott, Shannon, Saint Louis, Stoddard, Taney, Webster.

Contiguous Counties: Missouri:

Audrain, Boone, Chariton, Cole, Cooper, Dunklin, Mississippi, Montgomery, New Madrid, Ozark, Randolph, Saint Louis City, Saline.

Arkansas:

Benton, Boone, Clay, Marion.

Illinois:

Alexander, Madison, Saint Clair, Union.

Oklahoma:

Delaware.

The number assigned to this disaster for physical damage has also been amended to 112036 to match the disaster type for flooding. All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–7366 Filed 4–7–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to Waive the Nonmanufacturer Rule for Paper Products Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Paper Products Manufacturing. This U.S. industry comprises establishments primarily engaged in manufacturing paper (except new spring and uncoated groundwood paper) from pulp. These establishments may also convert the paper they make. According to the request, no small business manufacturers supply this class of product to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted April 23, 2008.

ADDRESSES: You may submit comments and source information to Pamela M. McClam, Program Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *pamela.mcclam@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months.

The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Paper Products Manufacturing, North American Industry Classification System (NAICS) code 322121 product number 8540.

The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Arthur E. Collins, Jr.,

Director for Government Contracting.

[FR Doc. E8–7317 Filed 4–7–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Intent To Waive the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing. This U.S. industry comprises establishments primarily engaged in manufacturing surgical appliances and supplies. Examples of products made by these establishments are orthopedic devices, prosthetic appliances, surgical dressings, crutches, surgical sutures, personal industrial safety devices (except protective eyewear), hospital beds, and operating room tables. According to the request, no small business manufacturers supply this class of product to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses;

service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted April 23, 2008.

ADDRESSES: You may submit comments and source information to Pamela M. McClam, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail *pamela.mcclam@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 21.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months.

The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing, North American Industry Classification System (NAICS) code 339113 product number 9999.

The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Arthur E. Collins, Jr.,

Director for Government Contracting.

[FR Doc. E8–7322 Filed 4–7–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to Waive the Nonmanufacturer Rule for Trash Bags Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Trash Bags Manufacturing. This U.S. industry comprises establishments primarily engaged in (1) converting plastics resins into plastics bags or pouches; and/or (2) forming, coating, or laminating plastics film or sheet into single web or multi-web plastics bags or pouches. Establishments in this industry may print on the bags or pouches they manufacture. According to the request, no small business manufacturers supply this class of product to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted April 23, 2008.

ADDRESSES: You may submit comments and source information to Pamela M. McClam, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail *pamela.mcclam@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C.637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months.

The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Trash Bags Manufacturing, North American Industry Classification System (NAICS) code 326111 product number 8105.

The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Arthur E. Collins, Jr.,

Director for Government Contracting.

[FR Doc. E8–7319 Filed 4–7–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Delegation of Authority No. 311]

Negotiation, Conclusion, and Termination of Treaties and Other International Agreements

Section 1. Functions Delegated

By virtue of the authority vested in me by Section 1 of the State Department Basic Authorities Act (22 U.S.C. 2651a), I hereby delegate to the officers holding the positions specifically designated herein my authority under 1 U.S.C. 112b(c) and the Circular 175 procedure of the Department of State (22 CFR 181.4 and 11 FAM 700 *et seq.*) to negotiate, conclude, and terminate treaties and other international agreements, and to authorize the negotiation, conclusion, and termination of treaties and other international agreements by other United States Government officials.

This authority is delegated to the following:

The Deputy Secretary of State;

The Under Secretary of State for Political Affairs;

The Under Secretary of State for Economic, Energy and Agricultural Affairs;

The Under Secretary of State for Arms Control and International Security;

The Under Secretary of State for Democracy and Global Affairs;

The Under Secretary of State for Public Diplomacy and Public Affairs;

The Under Secretary of State for Management; and

Any successor positions to these positions.

Notwithstanding the provisions of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function hereby delegated.

Section 2. Delegations Revoked

Delegation of Authority 150, dated December 14, 1982, and Delegation of Authority 205, dated September 1, 1993, are hereby revoked.

Section 3. Publication

This Delegation of Authority shall be published in the **Federal Register**.

Dated: March 28, 2008.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E8–7344 Filed 4–7–08; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between the City of Lakeland and the Federal Aviation Administration for the Lakeland Linder Regional Airport, Lakeland, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties 58 acres at the Lakeland Linder Regional Airport, Lakeland, Florida from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Lakeland, dated September 1947 and the supplemental Quitclaim Deed agreement, dated April 1948. The release of property will allow the City of Lakeland to dispose of the property for other than aeronautical purposes. The property is located in the City of Lakeland, Polk County, Florida. The parcel is currently designated as aeronautical and non-aeronautical use. The property will be disposed of for the purpose of industrial use. The fair market value of the property has been determined by appraisal to be $3,190,000. The airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Office of the Airport Director, Lakeland Linder Regional Airport and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATES: May 8, 2008.

ADDRESSES: Documents are available for review at 3900 Don Emerson Drive, Suite 210, Lakeland, FL 33811, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Gavin Fahnestock, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Gavin Fahnestock, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

Bart Vernace,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. E8–7093 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on U.S. 26, Wilwood to Wemme: Clackamas County, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitations on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, U.S. 26, the Mt. Hood Highway, from Wildwood to Wemme, in Clackamas County, Oregon. Those actions grant approval for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before October 6, 2008. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Michelle Eraut, Environmental Program Manager, Federal Highway Administration, 530 Center Street, NE., Suite 100, Salem, Oregon 97301, Telephone: (503) 587–4716. The Environmental Assessment, Revised Environmental Assessment, Finding of No Significant Impact (FONSI) and other project records are available upon written request from the Federal Highway Administration at the address shown above. Comments or questions concerning this proposed action and the FONSI should be directed to the FHWA at the address provided above.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. 139(*l*)(1) by issuing a decision for the following highway project in the State of Oregon: U.S. 26: Wildwood to Wemme. This project would provide a median center lane for left turns onto and off U.S. 26 between the communities of Wildwood and Wemme. The actions by the Federal agency and the laws under which such actions were taken, are described in the Environmental Assessment, Revised Environmental Assessment and FONSI issued on January 25, 2007, and in other documents in the FHWA project records. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (DSWA) [42 U.S.C. 300(f)–300(j)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Wetlands Mitigation [23 U.S.C. 103(b)(6)(M) and 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued On: April 1, 2008.

Michelle Eraut,

Environmental Program Manager, Salem, Oregon.

[FR Doc. E8–7306 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

TIME AND DATE: May 8, 2008, 11 a.m. to 2 p.m., 11 a.m. to 2 p.m., Eastern Daylight Time.

PLACE: This meeting will take place telephonically. Any interested person may call Mr. Avelino Gutierrez at (505) 827–4565 to receive the toll free numbers and pass codes needed to participate in these meetings by telephone.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Dated: April 1, 2008.

William A. Quade,

Associate Administrator for Enforcement and Program Delivery.

[FR Doc. E8–7241 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0062]

Notice of Receipt of Petition for Decision That Nonconforming 2005 Jeep Liberty Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2005 Jeep Liberty multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2005 Jeep Liberty multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 8, 2008.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

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

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. 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).

How to Read Comments Submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the

comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC, of Baltimore, Maryland (JK)(Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2005 Jeep Liberty multipurpose passenger vehicles are eligible for importation into the United States. The vehicles which JK believes are substantially similar are 2005 Jeep Liberty multipurpose passenger vehicles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2005 Jeep Liberty multipurpose passenger vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that non-U.S. certified 2005 Jeep Liberty multipurpose passenger vehicles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2005 Jeep Liberty multipurpose passenger vehicles are identical to their U.S.-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 108 *Lamps, Reflective Devices and Associated Equipment,* 111 *Rearview Mirrors,* 113 *Hood Latch System,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 119 *New Pneumatic Tires for Vehicles Other than Passenger Cars,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact, 202 Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner states that the vehicle is equipped with a vehicle identification number plate that complies with the requirements of 49 CFR Part 565.

Petitioner also observes that the vehicle complies with the Theft Prevention Standard found in 49 CFR part 541.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* installation of a U.S.-model instrument cluster.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* inspection of all vehicles and replacement of any non U.S.-model seat belts, air bag control units, air bags, and sensors with U.S.-model components on vehicles that are not already so equipped.

Petitioner states that the vehicle's restraint system components include airbags, knee bolsters and combination lap and shoulder belts at the front outboard designated seating positions and combination lap and shoulder belts at the rear outboard designated seating positions.

Standard No. 225 *Child Restraint Anchorage Systems,* inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model components to meet the requirements of this standard.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 1, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E8–7388 Filed 4–7–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 265X)]

Union Pacific Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemption—In Los Angeles County, CA

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon the Santa Monica Industrial Lead from milepost 485.61 to milepost 485.69 and to discontinue trackage rights from milepost 485.69 to milepost 486.00,[1] a total distance of 0.39 miles in the City of Los Angeles, Los Angeles County, CA. The line traverses United States Postal Service Zip Codes 90011 and 90058.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal

[1] The portion of the line over which UP proposes to discontinue trackage rights was sold by UP's predecessor, Southern Pacific Transportation Company, to the Los Angeles Metropolitan Transportation Authority in 1990.

complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment or discontinuance of trackage rights shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 8, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 18, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 28, 2008, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Gabriel S. Meyer, Assistant General Attorney, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed a combined environmental and historic report addressing the effects, if any, of the abandonment and discontinuance of the trackage rights on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 11, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by April 8, 2009, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: April 1, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–7173 Filed 4–7–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that the subcommittees of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board will meet from 8 a.m. to 5 p.m. as indicated below:

Subcommittee for	Date(s)	Location
Mental Hlth & Behav Sci-A	May 5, 2008	L'Enfant Plaza Hotel.
Respiration	May 9, 2008	Marriott Crystal City Hotel.
Endocrinology-A&B	May 12–13, 2008	L'Enfant Plaza Hotel.
Neurobiology-E	May 15, 2008	L'Enfant Plaza Hotel.
Hematology	May 16, 2008	L'Enfant Plaza Hotel.
Cardiovascular Studies	May 19, 2008	The Westin.
Immunology-A	May 20, 2008	Marriott Crystal City.
Cellular & Molecular Medicine	May 21, 2008	*VA Central Office.
Clinical Research Program	May 22, 2008	Marriott Crystal City.
Infectious Diseases-A	May 23, 2008	The Westin.
Infectious Diseases-B	May 28, 2008	Marriott Crystal City.
Mental Hlth & Behav Sci-B	May 29, 2008	Marriott Crystal City.
Neurobiology-C	June 2–3, 2008	St. Gregory Hotel.
Epidemiology	June 3, 2008	*VA Central Office.
Nephrology	June 6, 2008	L'Enfant Plaza Hotel.
Neurobiology-A	June 9, 2008	*VA Central Office.
Neurobiology-D	June 9, 2008	The Westin.
Surgery	June 9, 2008	The Westin.
Gastroenterology	June 12, 2008	The Westin.
Oncology	June 12–13 2008	L'Enfant Plaza Hotel.
Immunology-B	June 13, 2008	L'Enfant Plaza Hotel.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

The addresses of the hotels and VA Central Office are:

L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC; Marriott Crystal City, 1999 Jefferson Davis Highway, Arlington, VA; St. Gregory Hotel, 2033 M Street, NW., Washington, DC; VA Central Office, 1722 Eye Street, NW., Washington, DC; The Westin Washington DC City Center Hotel, 1400 M Street, NW., Washington, DC.

*Teleconference

The purpose of the Merit Review Board is to provide advice on the scientific quality, budget, safety and mission relevance of investigator research proposals submitted for VA merit review consideration, Proposals submitted for review by the Board involve a wide range of medical specialties within the general areas of biomedical, behavioral and clinical science research.

The subcommittee meetings will be open to the public for approximately one hour at the start of each meeting to discuss the general status of the program. The remaining portion of each subcommittee meeting will be closed to the public for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of each meeting involves discussion, examination, reference to staff and consultant critiques of research protocols. During this portion of each subcommittee meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which could significantly frustrate implementation of proposed agency action regarding such research projects.

As provided by subsection 10(d) of Public Law 92–463, as amended, closing portions of these subcommittee meetings is in accordance with 5 U.S.C., 552b(c) (6) and (9)(8). Those who plan to attend or would like to obtain a copy of minutes of the subcommittee meetings and rosters of the members of the subcommittees should contact LeRoy G. Frey, PhD, Chief, Program Review (121F), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 at (202) 254–0288.

Dated: March 31 2008.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E8–7150 Filed 4–7–08; 8:45 am]

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LIST OF PUBLIC LAWS

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