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

WHEN: Tuesday, March 17, 2009
9:00 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Memorandum of March 3, 2009

The Endangered Species Act

Memorandum for the Heads of Executive Departments and Agencies

The Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.*, reflects one of the Nation's profound commitments. Pursuant to that Act, the Federal Government has long required a process of broad interagency consultation to ensure the application of scientific and technical expertise to decisions that may affect threatened or endangered species. Under that interagency process, executive departments and agencies (agencies) contemplating an action that may affect endangered or threatened species have long been required, except in certain limited circumstances, to consult with, and in some circumstances obtain the prior written concurrence of, the Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS)—the expert agencies that have the primary responsibility to ensure that the ESA is implemented in accordance with the law.

On December 16, 2008, the Departments of the Interior and Commerce issued a joint regulation that modified these longstanding requirements. See 73 *Fed. Reg.* 76272. This new regulation expands the circumstances in which an agency may determine not to consult with, or obtain the written concurrence of, the FWS or NMFS prior to undertaking an action that may affect threatened or endangered species. But under the new regulation, agencies may continue the previous practice of consulting with, and obtaining the written concurrence of, the FWS and NMFS as a matter of discretion.

I hereby request the Secretaries of the Interior and Commerce to review the regulation issued on December 16, 2008, and to determine whether to undertake new rulemaking procedures with respect to consultative and concurrence processes that will promote the purposes of the ESA.

Until such review is completed, I request the heads of all agencies to exercise their discretion, under the new regulation, to follow the prior longstanding consultation and concurrence practices involving the FWS and NMFS.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Agencies shall carry out the provisions of this memorandum to the extent permitted by law and consistent with statutory authorities.

The Secretary of the Interior is hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, March 3, 2009

[FR Doc. E9–4880
Filed 3–5–09; 8:45 am]
Billing code 4310–10–P

Presidential Documents

Memorandum of March 4, 2009

Government Contracting

Memorandum for the Heads of Executive Departments and Agencies

The Federal Government has an overriding obligation to American taxpayers. It should perform its functions efficiently and effectively while ensuring that its actions result in the best value for the taxpayers.

Since 2001, spending on Government contracts has more than doubled, reaching over $500 billion in 2008. During this same period, there has been a significant increase in the dollars awarded without full and open competition and an increase in the dollars obligated through cost-reimbursement contracts. Between fiscal years 2000 and 2008, for example, dollars obligated under cost-reimbursement contracts nearly doubled, from $71 billion in 2000 to $135 billion in 2008. Reversing these trends away from full and open competition and toward cost-reimbursement contracts could result in savings of billions of dollars each year for the American taxpayer.

Excessive reliance by executive agencies on sole-source contracts (or contracts with a limited number of sources) and cost-reimbursement contracts creates a risk that taxpayer funds will be spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the needs of the Federal Government or the interests of the American taxpayer. Reports by agency Inspectors General, the Government Accountability Office (GAO), and other independent reviewing bodies have shown that noncompetitive and cost-reimbursement contracts have been misused, resulting in wasted taxpayer resources, poor contractor performance, and inadequate accountability for results.

When awarding Government contracts, the Federal Government must strive for an open and competitive process. However, executive agencies must have the flexibility to tailor contracts to carry out their missions and achieve the policy goals of the Government. In certain exigent circumstances, agencies may need to consider whether a competitive process will not accomplish the agency's mission. In such cases, the agency must ensure that the risks associated with noncompetitive contracts are minimized.

Moreover, it is essential that the Federal Government have the capacity to carry out robust and thorough management and oversight of its contracts in order to achieve programmatic goals, avoid significant overcharges, and curb wasteful spending. A GAO study last year of 95 major defense acquisitions projects found cost overruns of 26 percent, totaling $295 billion over the life of the projects. Improved contract oversight could reduce such sums significantly.

Government outsourcing for services also raises special concerns. For decades, the Federal Government has relied on the private sector for necessary commercial services used by the Government, such as transportation, food, and maintenance. Office of Management and Budget Circular A–76, first issued in 1966, was based on the reasonable premise that while inherently governmental activities should be performed by Government employees, taxpayers may receive more value for their dollars if non-inherently governmental activities that can be provided commercially are subject to the forces of competition.

However, the line between inherently governmental activities that should not be outsourced and commercial activities that may be subject to private

sector competition has been blurred and inadequately defined. As a result, contractors may be performing inherently governmental functions. Agencies and departments must operate under clear rules prescribing when outsourcing is and is not appropriate.

It is the policy of the Federal Government that executive agencies shall not engage in noncompetitive contracts except in those circumstances where their use can be fully justified and where appropriate safeguards have been put in place to protect the taxpayer. In addition, there shall be a preference for fixed-price type contracts. Cost-reimbursement contracts shall be used only when circumstances do not allow the agency to define its requirements sufficiently to allow for a fixed-price type contract. Moreover, the Federal Government shall ensure that taxpayer dollars are not spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the Federal Government's needs and to manage the risk associated with the goods and services being procured. The Federal Government must have sufficient capacity to manage and oversee the contracting process from start to finish, so as to ensure that taxpayer funds are spent wisely and are not subject to excessive risk. Finally, the Federal Government must ensure that those functions that are inherently governmental in nature are performed by executive agencies and are not outsourced.

I hereby direct the Director of the Office of Management and Budget (OMB), in collaboration with the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Administrator of General Services, the Director of the Office of Personnel Management, and the heads of such other agencies as the Director of OMB determines to be appropriate, and with the participation of appropriate management councils and program management officials, to develop and issue by July 1, 2009, Government-wide guidance to assist agencies in reviewing, and creating processes for ongoing review of, existing contracts in order to identify contracts that are wasteful, inefficient, or not otherwise likely to meet the agency's needs, and to formulate appropriate corrective action in a timely manner. Such corrective action may include modifying or canceling such contracts in a manner and to the extent consistent with applicable laws, regulations, and policy.

I further direct the Director of OMB, in collaboration with the aforementioned officials and councils, and with input from the public, to develop and issue by September 30, 2009, Government-wide guidance to:

(1) govern the appropriate use and oversight of sole-source and other types of noncompetitive contracts and to maximize the use of full and open competition and other competitive procurement processes;

(2) govern the appropriate use and oversight of all contract types, in full consideration of the agency's needs, and to minimize risk and maximize the value of Government contracts generally, consistent with the regulations to be promulgated pursuant to section 864 of Public Law 110–417;

(3) assist agencies in assessing the capacity and ability of the Federal acquisition workforce to develop, manage, and oversee acquisitions appropriately; and

(4) clarify when governmental outsourcing for services is and is not appropriate, consistent with section 321 of Public Law 110–417 (31 U.S.C. 501 note).

Executive departments and agencies shall carry out the provisions of this memorandum to the extent permitted by law. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of OMB is hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, March 4, 2009

[FR Doc. E9–4938
Filed 3–5–09; 8:45 am]
Billing code 3110–01–P

Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1779

Rural Housing Service

7 CFR Part 3575

Rural Business—Cooperative Service

Rural Utilities Service

7 CFR Parts 4279 and 4280

Rural Business—Cooperative Service

Rural Housing Service

Rural Utilities Service

7 CFR Part 5001

[FR Doc. E9–3092]

RIN 0570–AA65

Rural Development Guaranteed Loans

AGENCIES: Rural Business—Cooperative Service, Rural Housing Service, Rural Utilities Service, USDA.

ACTION: Interim rule; delay of the effective date.

SUMMARY: Rural Development is further delaying the effective date of the interim rule for Rural Development Guaranteed Loans, which was published on December 17, 2008, to June 1, 2009. The interim rule establishes a unified guaranteed loan platform for the enhanced delivery of four existing Rural Development guaranteed loan programs—Community Facility; Water and Waste Disposal; Business and Industry; and Rural Energy for America Program, formerly known as Renewable Energy Systems and Energy Efficiency Improvement Projects.

DATES: The effective date of the interim rule, which was published on December 17, 2008 [73 FR 76698], delayed until February 17, 2008 [74 FR 2823], delayed until March 9, 2009 [74 FR 7179], is further delayed until June 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Foore, Rural Development, Business and Cooperative Programs, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 3201, Washington, DC 20250–3201; e-mail: *Michael.Foore@wdc.usda.gov*; telephone (202) 690–4730.

SUPPLEMENTARY INFORMATION: On January 16, 2009, Rural Development delayed the original effective date of the interim rule from January 16, 2009, to February 17, 2009, because there was insufficient time to correct a technical error in the interim rule before the interim rule became effective on January 16, 2009.

Subsequently, Rural Development again delayed the effective date of the interim rule from February 17, 2009, to March 9, 2009 [74 FR 7179, February 13, 2009] allowing for public comments to extend the effective date to June 1, 2009. As stated in the **Federal Register**, Rural Development identified several administrative actions, including providing the best guidance to its field staff on the interim rule, it believed were necessary to occur prior to the February 17, 2009, effective date in order to ensure the successful implementation of the interim rule. Consequently, Rural Development determined that it was necessary to extend the effective date to June 1, 2009, in order to provide Rural Development the necessary time to implement these administrative actions.

As noted in the February 13, 2009, **Federal Register**, Rural Development made this change to the effective date, as is provided for under the Administrative Procedures Act (5 U.S.C. 553(b)(3)(B)), because:

1. Implementing the interim rule on February 17, 2009, would have created substantial legal and operation risks to the affected programs because the rule contains certain flaws that must be corrected and would not have provided the Agency sufficient time to properly train field staff and make changes to IT systems critical to the implementation of these programs. These actions could not have been completed by February 17, 2009.

2. The two week extension would allow the public a reasonable opportunity to comment on this proposed extension of the effective date to June 1, 2009, and the Agency to consider such comments before making the decision to make such extension.

3. Extending the effective date to June 1, 2009, allows the Agency to finish the 60-day review described in the January 20, 2009, memo from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review.''

The public comment period on the Agency's proposed June 1, 2009, effective date closed on February 20, 2009. The Agency received three comment letters on the proposed extension of the effective date. None of the commenters suggested that the interim rule become effective prior to June 1, 2009. Two of the three commenters also submitted comments during the public comment period on the interim rule. Because the comments submitted by these commenters, address issues that are very similar to those included in comments submitted during the public comment period for the interim rule, the Agency will consider these issues when it considers the comments on the interim rule. Therefore, the effective of the interim rule is extended to June 1, 2009.

Dated: March 3, 2009.

William F. Hagy III,

Acting Deputy Under Secretary, Rural Development.

[FR Doc. E9–4839 Filed 3–5–09; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310 and 347

[Docket No. FDA–1978N–0007] (Formerly Docket No. 78N–021A)

RIN 0910–AF42

Astringent Drug Products That Produce Aluminum Acetate; Skin Protectant Drug Products for Over-the-Counter Human Use; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: We (Food and Drug Administration (FDA)) are amending the final monograph (FM) for over-the-counter (OTC) skin protectant astringent drug products. This amendment clarifies that aluminum acetate solutions, produced by dissolving aluminum sulfate tetradecahydrate and calcium acetate monohydrate in powder or tablet form in water, are generally recognized as safe and effective (GRASE) and not misbranded as astringent drug products. The amendment also describes how manufacturers should relabel these products to comply with the FM. We are issuing this amendment in response to a citizen petition (CP) that we received from a manufacturer of OTC astringent drug products. This final rule is part of our ongoing review of OTC drug products.

DATES: *Effective Date*: This regulation is effective March 6, 2009.

Compliance Date: The compliance date for all products, regardless of annual sales, is September 6, 2010.

FOR FURTHER INFORMATION CONTACT: Matthew R. Holman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, MS 5411, Silver Spring, MD 20993, 301–796–2090.

SUPPLEMENTARY INFORMATION:

I. What Is the Regulatory History of This Rulemaking?

A. Advance Notice of Proposed Rulemaking (ANPR)

We published an ANPR for certain OTC skin protectant drug products in the **Federal Register** on September 7, 1982 (47 FR 39436) (the 1982 ANPR). In the 1982 ANPR, the agency reported that the Advisory Review Panel on OTC Miscellaneous External Drug Products (the Panel) recommended that we classify solutions containing 2.5 to 5 percent aluminum acetate as GRASE for topical use as an astringent. The 1982 ANPR includes the following terms when referring to this ingredient (47 FR 39436 at 39444 through 39446):

- ''aluminum acetate''
- ''aluminum acetate solution''
- ''Burow's solution''

Although some of the aluminum acetate products that the Panel evaluated were powders and tablets that were dissolved in water (Refs. 1 and 2), those products, as manufactured, did not contain aluminum acetate. Rather, those powders and tablets contained aluminum sulfate and calcium acetate, which produced an aluminum acetate solution when dissolved in water.

In addition, the Panel separately evaluated aluminum sulfate and calcium acetate as OTC astringent single active ingredients (i.e., when not in combination with each other). The Panel recommended that aluminum sulfate, as a single active ingredient, is GRASE and not misbranded only for use in a styptic pencil (47 FR 39436 at 39447 and 39448).[1] The Panel recommended that calcium acetate be classified as not GRASE or misbranded when used as a single active ingredient (47 FR 39436 at 39444). The Panel was not aware of any data demonstrating the safety and effectiveness of calcium acetate, as a single active ingredient, when used as an OTC astringent active ingredient in any formulation.

B. Proposed Rule

In the **Federal Register** of April 3, 1989 (54 FR 13490), we published a proposed rule amending the tentative final monograph (TFM) for OTC skin protectant drug products to include astringent drug products (the 1989 TFM). In the 1989 TFM, we proposed monograph status for aluminum acetate, as recommended by the Panel (54 FR 13490 at 13494). However, we revised the Panel's recommended concentration to 0.13 to 0.5 percent, indicating that the Panel did not take into account further dilution of the 2.5 to 5 percent aluminum acetate solution (54 FR 13490 at 13494 and 13496). We agreed with the Panel's recommendation for calcium acetate and proposed that the ingredient be classified as nonmonograph (54 FR 13490 at 13496). We also noted that one comment mentioned that the USP (United States Pharmacopeia) procedure for preparing Burow's Solution (aluminum acetate solution) de novo does not pertain to modified aluminum acetate solutions prepared from tablets or powders (54 FR 13490 at 13494).

C. Final Rule

In the **Federal Register** of October 21, 1993 (58 FR 54458), we published a final rule in the form of a FM for OTC skin protectant drug products that established conditions under which OTC astringent drug products are GRASE and not misbranded (the 1993 skin protectant FM). The 1993 skin protectant FM added GRASE astringent active ingredients and labeling for astringents to 21 CFR part 347 subpart A. The 1993 skin protectant FM, which became effective on October 21, 1994, includes 0.13 to 0.5 percent aluminum acetate as an active ingredient in § 347.12 (21 CFR 347.12) (then § 347.10(a) (21 CFR 347.10(a))). The 1993 skin protectant FM specifies that, depending on the formulation and concentration of the marketed product, the manufacturer must provide adequate directions so that the resulting solution to be used by consumers contains 0.13 to 0.5 percent aluminum acetate.

In the 1993 skin protectant FM, we noted that calcium acetate was listed in § 310.545(a)(18)(ii) (21 CFR 310.545(a)(18)(ii)) as nonmonograph in a final rule published on May 10, 1993 (58 FR 27636 at 27642).

D. Feedback Letter

A manufacturer submitted a letter in 1994 requesting clarification whether its OTC astringent drug product, a powder containing aluminum sulfate and calcium acetate, could continue to be marketed under the 1993 skin protectant FM (Ref. 3). The manufacturer stated that it markets one of the products reviewed by the Panel in which aluminum acetate was determined to be GRASE for OTC astringent drug products. When dissolved in water according to labeled directions, the manufacturer's product becomes an aluminum acetate solution with a calcium sulfate precipitate.

In a 1995 letter to the manufacturer, we stated that the product fails to comply with the 1993 skin protectant FM because it contains the nonmonograph ingredient calcium acetate (Ref. 4). We suggested that the manufacturer contact us to amend the 1993 skin protectant FM to allow continued marketing of its product. Subsequently, the manufacturer submitted a CP (Ref. 5).

II. Why Is FDA Issuing This Document?

We are issuing this technical amendment in response to the CP submitted by an OTC astringent drug product manufacturer in 1995 (the 1995 CP) (Ref. 5). The 1995 CP was submitted by a manufacturer who marketed one of the products reviewed by the Panel in which aluminum acetate was determined to be GRASE for OTC astringent drug products (see section I.D of this document). The 1995 CP requested that we revise the skin protectant FM (§ 347.12(a) (then § 347.10(a)) as follows, or in equivalent language having the same effect (Ref. 5): ''Aluminum acetate, 0.13 to 0.5 percent

[1] In the 1982 ANPR, we stated that the Panel had concluded that aluminum sulfate is safe but that there were insufficient data to establish its effectiveness for use as a styptic pencil (47 FR 39436 at 39447 and 39448). In the **Federal Register** of April 3, 1989 (54 FR 13490 at 13493), we stated that an apparent administrative error had occurred in that the Panel had voted to classify aluminum sulfate as GRASE and not misbranded for use in a styptic pencil.

(where the product as marketed consists of salts other than aluminum acetate, or where the aluminum acetate concentration of the product as marketed is other than 0.13 to 0.5 percent, the manufacturer must provide adequate directions so that the resulting solution to be used by the consumer consists of 0.13 to 0.5 percent aluminum acetate).'' The manufacturer intended ''salts other than aluminum acetate'' to include dry formulations of aluminum sulfate plus calcium acetate. The manufacturer argued that its labeled directions produce an aluminum acetate solution that falls within the concentration range specified in the 1993 skin protectant FM.

We have not taken any enforcement action against these powder and tablet products that produce an aluminum acetate solution while developing this document as our response to the 1995 CP. In this document, we are granting the request in the 1995 CP to revise the 1993 skin protectant FM by including the combination of aluminum sulfate and calcium acetate in powder and tablet dosage forms to prepare an aluminum acetate solution.

III. What Changes to the Skin Protectant FM Is FDA Making in This Document?

This document adds the GRASE combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate in powder or tablet form to produce a 0.13 to 0.5 percent aluminum acetate solution when the powder or tablet is dissolved in the volume of water specified in ''Directions.'' This technical amendment also includes additional labeling requirements for OTC astringent drug products that consist of this GRASE combination of active ingredients.

Since we issued the 1993 skin protectant FM, the *United States Pharmacopeia/National Formulary* (USP/NF) has added monographs for

- Aluminum Sulfate and Calcium Acetate Tablets for Topical Solution (Ref. 6) and
- Aluminum Sulfate and Calcium Acetate for Topical Solution (Ref. 7).

The second USP monograph is for products formulated as powders. The USP monographs state that these products contain aluminum sulfate tetradecahydrate and calcium acetate monohydrate, which are the hydrate forms of aluminum sulfate and calcium acetate. When a tablet or powder containing the aluminum sulfate tetradecahydrate and calcium acetate monohydrate is dissolved in water, a chemical reaction occurs that produces an aluminum acetate solution and a calcium sulfate precipitate.

Rather than amend the aluminum acetate section of the 1993 skin protectant FM as requested in the 1995 CP, we are redesignating existing § 347.20(b) as § 347.20(c), and adding a new § 347.20(b), to include the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate in powder and tablet dosage forms to prepare an aluminum acetate solution. We are limiting the combination of ingredients to powder and tablet dosage forms because there are corresponding USP monographs for these dosage forms, but not for other dosage forms (Refs. 6 and 7). New § 347.20(b) states:''*Combination of ingredients to prepare an aluminum acetate solution*. Aluminum sulfate tetradecahydrate may be combined with calcium acetate monohydrate in powder or tablet form to provide a 0.13 to 0.5 percent aluminum acetate solution when the powder or tablet is dissolved in the volume of water specified in 'Directions'.'' This amendment provides an alternate approach to prepare the aluminum acetate solution described in § 347.12(a).

Marketed products have contained varying amounts of aluminum sulfate and calcium acetate based on the amount of water in which the powder or tablet is dissolved to make an aluminum acetate solution. For example, a product with directions to use 16 ounces of water requires a larger amount of each ingredient than a product with directions to use 12 ounces of water. Generally, the products have contained between 53 and 59 percent aluminum sulfate and 40 to 44 percent calcium acetate in each tablet or powder. Inactive ingredients account for the other amounts to make 100 percent.

Because of the varying amount of aluminum sulfate and calcium acetate, we are not specifying an amount for each active ingredient required in a product. However, this information is required to appear in the product's labeling (see 21 U.S.C. 352(e)(1)(A)(ii) and § 201.66(c)(2) (21 CFR 201.66(c)(2))). Labeling must state the amount of each active ingredient in the product and those amounts, when dissolved in the amount of water stated in the product's labeling, must produce a 0.13 to 0.5 percent aluminum acetate solution. We are providing labeling in this document to allow manufacturers to continue to market these products in this manner.

We are revising § 347.52 (*Labeling of astringent drug products*) (21 CFR 347.52), which describes specific labeling for products containing aluminum sulfate tetradecahydrate and calcium acetate monohydrate in powder or tablet dosage forms (see *Sample OTC Astringent Drug Product Label*). ''Aluminum sulfate tetradecahydrate'' and ''calcium acetate monohydrate'' must appear under the ''Active ingredients'' heading in Drug Facts, as is typical for OTC drug products. Under the ''Purpose'' heading, an asterisk should follow the word ''Astringent''. In addition, a statement explaining the asterisk should be included in the ''Active ingredients/Purpose'' section: ''*When combined together in water, these ingredients form the active ingredient aluminum acetate. See **Directions**.'' The ''Directions'' section should include instructions on preparing the aluminum acetate solution (0.13 to 0.5 percent) from the powder(s) or tablet(s). These directions will inform consumers that a solution is produced by dissolving the powder(s) or tablet(s) in water. We believe this labeling in the ''Active ingredients/Purpose'' and ''Directions'' sections adequately informs consumers that aqueous aluminum acetate is acting as the astringent active ingredient.

The combination product containing aluminum sulfate tetradecahydrate and calcium acetate monohydrate has the same indications and warnings as other monograph astringent products containing aluminum acetate. We are requiring that the ''for use as a soak'' and ''for use as a compress or wet dressing'' subheadings in the ''Directions'' section appear in bold type to make it easier for consumers to read and follow the different parts of the directions for these products (see *Sample OTC Astringent Drug Product Label*). For consistency in labeling, we are also requiring that the same two subheadings in the ''Directions'' section of OTC aluminum acetate solution drug products described in § 347.12(a) appear in bold type. The information under these subheadings for both types of aluminum acetate drug products (i.e., dry and solution formulations) is still required to appear in a bulleted format (see § 347.52(d)(1)(i) and (d)(1)(ii)).

The following sample OTC astringent drug product label illustrates the labeling for products containing aluminum sulfate tetradecahydrate and calcium acetate monohydrate in powder or tablet dosage forms to produce an aluminum acetate solution:

BILLING CODE 4160–01–S

Drug Facts

Active ingredients (in each packet)	Purpose
Aluminum sulfate tetradecahydrate, xxx mg	Astringent*
Calcium acetate monohydrate, xxx mg	Astringent*

* When combined together in water, these ingredients form the active ingredient aluminum acetate. See ***Directions***.

Use

- For temporary relief of minor skin irritations due to insect bites

Warnings

For external use only

When using this product

- avoid contact with eyes. If contact occurs, rinse thoroughly with water.
- do not cover compress or wet dressing with plastic to prevent evaporation
- in some skin conditions, soaking too long may overdry

Stop use and ask a doctor if

- condition worsens or symptoms last more than 7 days

Keep out of reach of children. If swallowed, get medical help or contact a Poison Control Center right away.

Directions

- dissolve 1 to 3 packets in a pint (16 oz) of cool or warm water
- stir until fully dissolved; do not strain or filter. The resulting mixture contains 0.15% (1 packet), 0.30% (2 packets), or 0.45% (3 packets) aluminum acetate and is ready for use.

For use as a soak:

- soak affected area for 15 to 30 minutes as needed, or as directed by a doctor
- repeat 3 times a day or as directed by a doctor
- discard solution after each use

For use as a compress or wet dressing:

- soak a clean, soft cloth in the solution
- apply cloth loosely to affected area for 15 to 30 minutes
- repeat as needed or as directed by a doctor
- discard solution after each use

Inactive ingredients XXXXXXXXXXXXXX

Questions or comments? call toll free 1-800-XXX-XXXX

BILLING CODE 4160–01–C

This sample label includes the specific labeling required for these products in this technical amendment as well as the general labeling required by the 1993 skin protectant FM. The format and sequence of the information and the font sizes for the title, heading, subheadings, text, and other graphic features must be in accordance with § 201.66.

In addition to adding new § 347.20(b), we are revising § 310.545(a)(18)(ii), which currently lists calcium acetate as a nonmonograph active ingredient that cannot be included in OTC astringent drug products. That section now reads as follows: ''Calcium acetate (except calcium acetate monohydrate when combined with aluminum sulfate tetradecahydrate to provide an aluminum acetate solution as described in § 347.20(b)).'' Therefore, calcium acetate is still nonmonograph except in products marketed under new § 347.20(b).

Because this document adds new § 347.20(b), we are redesignating existing § 347.20(b), (c), and (d) as § 347.20(c), (d), and (e), respectively. We are also revising the warnings in 21 CFR 347.50(c) to reflect the Drug Facts format in § 201.66, while not changing the meaning of these warnings. The *Sample OTC Astringent Drug Product Label* reflects all of these revisions.

IV. Analysis of Impacts

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

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because only a limited number of products will need to be relabeled, we certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $130 million, using the most current (2007) Implicit Price Deflator for the Gross Domestic Product. We do not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

The purpose of this final rule is to amend the 1993 skin protectant FM to add the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate for products that include appropriate amounts of these ingredients and adequate directions to produce an aluminum acetate solution within the monograph concentration range. This amendment describes a methodology for manufacturers of these OTC astringent drug products to relabel their products and market them in compliance with the 1993 skin protectant FM.

We have identified two OTC skin protectant astringent drug products, each with several stockkeeping units (SKUs) (individual products, packages, and sizes), that may need to be relabeled. While we are aware of several other products that are no longer marketed, there may be a few marketed products of which we are not currently aware. Accordingly, we estimate that there may be 5 products with 5 to 10 SKUs that may be affected by this final rule.

We have updated the weighted average cost to relabel that we estimated for the final rule requiring uniform label formats of OTC drug products (64 FR 13254 at 13279 to 13281, March 17, 1999) (i.e., $3,600 x 1.164[2] = $4,190 per SKU). Assuming up to 10 affected OTC SKUs in the marketplace, total one-time costs of relabeling could be $41,900 (i.e., 10 x $4,190). Because frequent labeling redesigns are a recognized cost of doing business in the OTC drug industry, these costs may be less. Manufacturers that make voluntary market-driven changes to their labeling during the implementation period can implement the regulatory requirements for a nominal cost. All products, including those with annual sales less than $25,000, will have 18 months following publication of the final rule to comply with the 1993 skin protectant FM. Therefore, many of the labeling revisions may be done in the normal course of business. These steps should help to minimize the impact on small entities by providing enough time for implementation to enable entities to use up existing labeling stock. In addition, the final rule does not require any new reporting or recordkeeping activities.

This final rule also requires manufacturers of the aluminum acetate solution products described in § 347.12(a) to make two very minor changes in the labeling of their products. They will need to change the two ''for use'' subheadings in the directions from standard to bold type and should be able to do so at a negligible cost. We estimate that less than 10 SKUs will be affected by this minor change. This final rule will not impose a significant economic burden on affected entities. Therefore, we certify that this final rule will not have a significant economic impact on a substantial number of small entities. No further analysis is required under the Regulatory Flexibility Act (5 U.S.C. 605(b)).

V. Paperwork Reduction Act of 1995

We conclude that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

VI. Environmental Impact

We have determined under 21 CFR 25.31(a) 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.

VII. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule will have a preemptive effect on State law. Section 4(a) of the Executive order requires agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress

[2] The annual PPI for pulp, paper, and allied products (the major cost driver for labeling) rose from 174.1 to 202.6 between 1998 and 2005 (see *http://data.bls.gov/cgi-bin/surveymost*). We have verified the Web site address, but we are not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.

intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Section 751 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379r) is an express preemption provision. Section 751(a) of the act (21 U.S.C. 379r(a)) provides that: ''* * * no State or political subdivision of a State may establish or continue in effect any requirement—* * * (1) that relates to the regulation of a drug that is not subject to the requirements of section 503(b)(1) or 503(f)(1)(A); and (2) that is different from or in addition to, or that is otherwise not identical with, a requirement under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 *et seq.*), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 *et seq.*).''

Currently, this provision operates to preempt States from imposing requirements related to the regulation of nonprescription drug products. (See section 751(b) through (e) of the act for the scope of the express preemption provision, the exemption procedures, and the exceptions to the provision.) This final rule clarifies that OTC astringent drug products containing aluminum sulfate tetradecahydrate and calcium acetate monohydrate in powder or tablet form for dissolving in water to produce an aluminum acetate solution are GRASE and not misbranded. The final rule also describes how manufacturers should relabel these products to comply with the 1993 skin protectant FM. Although this final rule would have a preemptive effect, in that it would preclude States from issuing requirements related to these OTC astringent drug products that are different from or in addition to, or not otherwise identical with a requirement in the final rule, this preemptive effect is consistent with what Congress set forth in section 751 of the act. Section 751(a) of the act displaces both State legislative requirements and State common law duties. We also note that even where the express preemption provision is not applicable, implied preemption may arise. See *Geier* v. *American Honda Co.*, 529 U.S. 861 (2000).

We believe that the preemptive effect of the final rule would be consistent with Executive Order 13132. Section 4(e) of the Executive order provides that ''when an agency proposes to act through adjudication or rulemaking to preempt State law, the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings.'' We provided the States with an opportunity for appropriate participation in this rulemaking when we sought input from all stakeholders through publication of the 1993 skin protectant FM. We received no comments from any States on the final rulemaking.

In addition, on December 17, 2008, FDA's Division of Federal and State Relations provided notice via fax and e-mail transmission to elected officials of State governments and their representatives of national organizations. The notice provided the States with further opportunity for input on the rule. It advised the States of the publication of the final rule and encouraged State and local governments to review the notice and to provide any comments to the docket (Docket No. 1978N–0021A), by a date 30 days from the date of the notice (i.e., by January 16, 2009), or to contact certain named individuals. We did not receive any comments in response to this notice. The notice has been filed in the above-numbered docket.

In conclusion, we believe that we have complied with all of the applicable requirements under the Executive order and have determined that the preemptive effects of this rule are consistent with Executive Order 13132.

VIII. References

The following references are on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, under Docket No. FDA–1978N–0007 (formerly Docket No. 1978N–021A) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Bluboro product label, Appendix A to CP1.
2. Domeboro product label.
3. Letter from S. Buxbaum, Allergan, to R. Heller, FDA, dated January 24, 1994, Appendix C to CP1.
4. Letter from B. Williams, FDA, to T. Mead, Allergan, dated January 2, 1995, Appendix D to CP1.
5. CP1.
6. *The United States Pharmacopeia 31-National Formulary 26*, The United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 1360, 2008.
7. *The United States Pharmacopeia 31-National Formulary 26*, The United States Pharmacopeial Convention, Inc., Rockville, MD, p. 1359, 2008.

List of Subjects

21 CFR Part 310

Administrative practice and procedures, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 347

Labeling, Over-the-counter drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 310 and 347 are amended as follows:

PART 310—NEW DRUGS

■ 1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b–360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b–263n.

■ 2. Section 310.545 is amended by revising the entry for calcium acetate in paragraph (a)(18)(ii), by revising paragraph (d) introductory text and paragraph (d)(11), and by adding new paragraph (d)(39) to read as follows:

§ 310.545 Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses.

(a) * * *
(18) * * *
(ii) * * *

* * * * *

Calcium acetate (except calcium acetate monohydrate when combined with aluminum sulfate tetradecahydrate to provide an aluminum acetate solution as described in § 347.20(b)) of this chapter

* * * * *

(d) Any OTC drug product that is not in compliance with this section is subject to regulatory action if initially introduced or initially delivered for introduction into interstate commerce after the dates specified in paragraphs (d)(1) through (d)(39) of this section.

* * * * *

(11) November 10, 1993, for products subject to paragraphs (a)(8)(ii), (a)(10)(v) through (a)(10)(vii), (a)(18)(ii) (except products that contain ferric subsulfate as covered by paragraph (d)(22) of this section and except products that contain calcium acetate monohydrate as covered by paragraph (d)(39) of this section) through (a)(18)(v)(A), (a)(18)(vi)(A), (a)(22)(ii), (a)(23)(i), (a)(24)(i), and (a)(25) of this section.

* * * * *

(39) September 6, 2010, for products subject to paragraph (a)(18)(ii) of this section that contain calcium acetate monohydrate, except as provided in § 347.20(b) of this chapter.

PART 347—SKIN PROTECTANT DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

■ 3. The authority citation for 21 CFR part 347 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

■ 4. Section 347.20 is amended by redesignating paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e), respectively, and by adding new paragraph (b) to read as follows:

§ 347.20 Permitted combinations of active ingredients.

* * * * *

(b) *Combination of ingredients to prepare an aluminum acetate solution.* Aluminum sulfate tetradecahydrate may be combined with calcium acetate monohydrate in powder or tablet form to provide a 0.13 to 0.5 percent aluminum acetate solution when the powder or tablet is dissolved in the volume of water specified in ''Directions.''

* * * * *

■ 5. Section 347.52 is amended by revising paragraph (a) and (b)(1) paragraph heading, and by revising paragraphs (c) and (d)(1), and by adding new paragraph (d)(4) to read as follows:

§ 347.52 Labeling of astringent drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an ''astringent.'' *For products containing the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate identified in § 347.20(b)*, under the ''Purpose'' heading identified in § 201.66(c)(3) of this chapter, the labeling of each active ingredient in the product states ''Astringent*'', which is followed by the statements ''* When combined together in water, these ingredients form the active ingredient aluminum acetate. See [the following in bold italic type] Directions.''

(b) *Indications.* * * *

(1) *For products containing aluminum acetate identified in § 347.12(a) or the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate identified in § 347.20(b).* * * *

* * * * *

(c) *Warnings.* The labeling of the product contains the following warnings under the heading ''Warnings'':

(1) *For all products*—(i) The labeling states ''For external use only''.

(ii) The labeling states ''When using this product [bullet] avoid contact with eyes. If contact occurs, rinse thoroughly with water.''

(2) *For products containing aluminum acetate identified in § 347.12(a), witch hazel identified in § 347.12(c), or the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate identified in § 347.20(b).* The labeling states ''Stop use and ask a doctor if [bullet] condition worsens or symptoms last more than 7 days''.

(3) *For products containing aluminum acetate identified in § 347.12(a) or the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate identified in § 347.20(b) when labeled for use as a compress or wet dressing.* The labeling states ''When using this product [bullet] do not cover compress or wet dressing with plastic to prevent evaporation''.

(4) *For products containing aluminum acetate identified in § 347.12(a) or the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate identified in § 347.20(b) when labeled for use as a soak, compress, or wet dressing.* The labeling states ''When using this product [bullet] in some skin conditions, soaking too long may overdry''.

(d) *Directions.* * * *

(1) *For products containing aluminum acetate identified in § 347.12(a) or the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate identified in § 347.20(b)*—(i) *For products used as a soak.* ''For use as a soak: [preceding words in bold type] [bullet] soak affected area for 15 to 30 minutes as needed, or as directed by a doctor [bullet] repeat 3 times a day or as directed by a doctor [bullet] discard solution after each use'' .

(ii) *For products used as a compress or wet dressing.* ''For use as a compress or wet dressing: [preceding words in bold type] [bullet] soak a clean, soft cloth in the solution [bullet] apply cloth loosely to affected area for 15 to 30 minutes [bullet] repeat as needed or as directed by a doctor [bullet] discard solution after each use''.

* * * * *

(4) *For products containing the combination of aluminum sulfate tetradecahydrate and calcium acetate monohydrate identified in § 347.20(b)*—(i) *For powder dosage form.* The labeling states ''[bullet] dissolve 1 to 3 packets in [insert volume] of cool or warm water [bullet] stir until fully dissolved; do not strain or filter. The resulting mixture contains [insert percent] (1 packet), [insert percent] (2 packets), or [insert percent] (3 packets) aluminum acetate and is ready for use.'' These statements shall be the first statements under the heading ''Directions''.

(ii) *For tablet dosage form.* The labeling states ''[bullet] dissolve 1 to 3 tablets in [insert volume] of cool or warm water [bullet] stir until fully dissolved; do not strain or filter. The resulting mixture contains [insert percent] (1 tablet), [insert percent] (2 tablets), or [insert percent] (3 tablets) aluminum acetate and is ready for use.'' These statements shall be the first statements under the heading ''Directions''.

* * * * *

Dated: February 23, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–4746 Filed 3–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. FDA–2009–N–0099]

New Drug Applications and Abbreviated New Drug Applications; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its new drug application (NDA) and abbreviated new drug application (ANDA) regulations to update agency contacts for patent information and patent notifications and to correct an inaccurate cross-reference. This action is being taken to ensure accuracy and clarity in the agency's regulations.

DATES: This rule is effective March 6, 2009.

FOR FURTHER INFORMATION CONTACT: Olivia A. Pritzlaff, Center for Drug Evaluation and Research, Food and Drug Administration, Bldg. 51, rm. 6308, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3506.

SUPPLEMENTARY INFORMATION: FDA is amending its NDA and ANDA regulations in part 314 (21 CFR part 314) to update agency contacts for information and notifications pertaining to patents and to correct an inaccurate reference. To accommodate the ongoing relocation of FDA offices, users are directed to FDA's Web site to obtain the current address of the Office of Generic Drugs.

In §§ 314.52(a)(2) and 314.95(a)(2), FDA is updating the agency contact for obtaining the name and address of the NDA holder or designee for purposes of providing notice of a patent certification submitted under section 505(b)(2)(A)(iv)

or 505(j)(2)(A)(vii)(IV) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(b)(2)(A)(iv) or 355(j)(2)(A)(vii)(IV)). The Division of Drug Information Resources no longer exists. The agency contact for this information is now the Orange Book Staff, Office of Generic Drugs.

In § 314.53(f), FDA is updating the agency unit to which notifications of requests for correction of patent information should be directed. The Drug Information Services Branch no longer exists. These notifications should now be sent to the Office of Generic Drugs Document Room, attention the Orange Book Staff.

In § 314.107(e), FDA is updating the listing of agency units to which a 505(b)(2) applicant must send notification of entry of an order or judgment in a court action. Instead of the appropriate division in the Office of Drug Evaluation I and Office of Drug Evaluation II, these notifications should now be sent to the appropriate division in the Office of New Drugs.

In § 314.107(f)(2)(iv), FDA is updating the agency recipient of a 505(b)(2) applicant's required notification that a legal action has been filed within 45 days of receipt of a notice of paragraph IV certification (submitted under section 505(b)(2)(A)(iv) of the act) from the appropriate division in the Center for Drug Evaluation and Research to the appropriate division in the Office of New Drugs.

In § 314.125(b)(16), FDA is correcting a cross-reference to the agency's regulations on institutional review boards (21 CFR part 56) by replacing ''part 58'' with ''part 56.''

Publication of this document constitutes final action under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because the amendments to the regulations provide only technical changes to correct an inaccurate citation and to update agency contacts, and are nonsubstantive.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 314 is amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

■ 1. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 356a, 356b, 356c, 371, 374, 379e.

§ 314.52 [Amended]

■ 2. Section 314.52 is amended in paragraph (a)(2) by removing ''Division of Drug Information Resources (HFD–80), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857'' and by adding in its place ''Orange Book Staff, Office of Generic Drugs, at the address identified on FDA's Web site (*http://www.fda.gov/cder/ogd*)''.

§ 314.53 [Amended]

■ 3. Section 314.53 is amended in paragraph (f) by removing ''Drug Information Services Branch (HFD–84), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857'' and by adding in its place ''Office of Generic Drugs, OGD Document Room, Attention: Orange Book Staff, at the address identified on FDA's Web site (*http://www.fda.gov/cder/ogd*)''.

§ 314.95 [Amended]

■ 4. Section 314.95 is amended in paragraph (a)(2) by removing ''Division of Drug Information Resources (HFD–80), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857'' and by adding in its place ''Orange Book Staff, Office of Generic Drugs, at the address identified on FDA's Web site (*http://www.fda.gov/cder/ogd*)''.

§ 314.107 [Amended]

■ 5. Section 314.107 is amended in paragraph (e) by removing ''Office of Drug Evaluation I (HFD–100) or Office of Drug Evaluation II (HFD–500), whichever is applicable,'' and by adding in its place ''Office of New Drugs'' and in paragraph (f)(2)(iv) by removing ''Center for Drug Evaluation and Research'' and by adding in its place ''Office of New Drugs''.

§ 314.125 [Amended]

■ 6. Section 314.125 is amended in paragraph (b)(16) by removing ''part 58'' and by adding in its place ''part 56''.

Dated: February 27, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy.

[FR Doc. E9–4813 Filed 3–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 529

[Docket No. FDA–2009–N–0665]

New Animal Drugs; Change of Sponsor; Methoxyflurane

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Schering-Plough Animal Health, Inc., to Medical Developments International, Ltd.

DATES: This rule is effective March 6, 2009.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8307, e-mail: *david.newkirk@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 556 Morris Ave., Summit, NJ 07901, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 14–485 for ANAFANE (methoxyflurane) Volatile Liquid for Inhalation Anesthesia to Medical Developments International, Ltd., P.O. Box 21, Sandown Village, 3171 VIC Australia.

Medical Developments International, Ltd., is not currently listed in the animal drug regulations as a sponsor of an approved application. In addition, FDA has noticed that this new animal drug has not been previously codified in 21 CFR part 529. Accordingly, the regulations are amended in 21 CFR 510.600(c) to add entries for Medical Developments International, Ltd., and in 21 CFR part 529 to add this new animal drug.

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

21 CFR Part 510

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

21 CFR Part 529

Animal drugs.

■ 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 parts 510 and 529 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1) alphabetically add an entry for ''Medical Developments International, Ltd.''; and in the table in paragraph (c)(2) numerically add an entry for ''025245'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* *
Medical Developments International, Ltd.,P.O. Box 21, Sandown Village, 3171 VIC Australia	025245
* * *	* *

(2) * * *

Drug labeler code	Firm name and address
* *	* * *
025245	Medical Developments International, Ltd.,P.O. Box 21, Sandown Village, 3171 VIC Australia
* *	* * *

* * * * *

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 529 continues to read as follows:

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

■ 4. Add § 529.1455 to read as follows:

§ 529.1455 Methoxyflurane.

(a) *Specifications.* Methoxyflurane liquid.

(b) *Sponsor.* See No. 025245 in § 510.600 of this chapter.

(c) *Conditions of use*—(1) *Amount.* The amount of methoxyflurane used depends on the weight of the patient, the depth of anesthesia, and the type of equipment used. Anesthesia may be induced with methoxyflurane alone, or by the intravenous administration of a short-acting general anesthetic or by inhalation of another anesthetic agent.

(2) *Indications for use.* For the induction and maintenance of general anesthesia.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: March 3, 2009.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. E9–4758 Filed 3–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0026]

Drawbridge Operation Regulation; Park Street Drawbridge, Oakland Inner Harbor, Alameda, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Park Street drawbridge across the Oakland Inner Harbor, mile 5.2, at Alameda, CA. The deviation is necessary to allow seismic retrofitting of the bridge. This deviation allows single leaf operation of the double leaf, bascule style drawbridge, during the deviation period.

DATES: This deviation is effective from 12:01 a.m. on February 1, 2009 until 11:59 p.m. on May 31, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of the docket USCG–2009–0026 and are available online at *http://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 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. If you have questions on viewing the docket, call Renee Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The County of Alameda requested a temporary change to the operation of the Park Street drawbridge across the Oakland Inner Harbor, mile 5.2, at Alameda, CA. The Park Street drawbridge navigation span provides a horizontal clearance of 241 feet between pier fenders. During single leaf operation, horizontal clearance is reduced to approximately 100 feet. The drawbridge provides a vertical clearance of 15 feet above Mean High Water in the closed-to-navigation position and unlimited vertical clearance in the open-to-navigation position. As required by 33 CFR 117.181, the draw shall open on signal; except that, from 8 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. Monday through Friday except Federal holidays, the draw need not be opened for the passage of vessels. However, the draw shall open during the above closed periods for vessels which must, for reasons of safety, move on a tide or slack water, if at least two hours notice is given. The waterway is navigated by commercial, recreational, emergency and law enforcement vessels.

Between the hours of 7 a.m. and 9 p.m. Monday through Thursday, and between the hours of 7 a.m. and 3:30 p.m. on Friday, the drawspan will be operated, one leaf at a time, while the opposite leaf, counterweight and hinges are seismically retrofitted. The drawbridge will be operated in the normal double leaf operation mode at night and on weekends, when work is not actually being performed on the bridge. The starting and ending dates for the project are from 12:01 a.m. on February 1, 2009 until 11:59 p.m. on May 31, 2009. This temporary deviation has been coordinated with the waterway users. The largest tug and barge combination on the waterway will be able to continue navigating safely through the bridge. Recreational and

other waterway traffic will not be negatively impacted by the project.

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

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: January 30, 2009.

P.F. Zukunft,

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

[FR Doc. E9–4811 Filed 3–5–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0440]

RIN 1625–AA87

Security Zone; Coast Guard Base San Juan, San Juan Harbor, PR

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent security zone of 100 yards around the Coast Guard Base in San Juan, Puerto Rico. The security zone is needed for national security reasons to protect the public and the Coast Guard base from potential subversive acts. This rule would exclude entry into the security zone by all vessels and personnel without permission of the U.S. Coast Guard Captain of the Port San Juan (COTP).

DATES: This rule is effective April 6, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0440 and are available online by going to *http://www.regulations.gov*, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–0440 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is 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 USCG Sector San Juan, Prevention Operations Department, 5 Calle La Puntilla, San Juan, Puerto Rico 00901 between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Junior Grade Rachael Love of Sector San Juan, Prevention Operations Department at (787) 289–2071. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 30, 2008, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Coast Guard Base San Juan, San Juan Harbor, Puerto Rico in the **Federal Register** (73 FR 56773). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Coast Guard docking facilities at La Puntilla in Old San Juan are home to six Coast Guard cutters and six Coast Guard small boats. Incidents of unknown vessels mooring up to the Coast Guard piers have occurred twice in the past year. In addition, suspected surveillance in the form of photography has been performed by unknown individuals located in close proximity to the Coast Guard base on more than one occasion. These incidents pose a potential threat to national security and may lead to subversive acts against the personnel or equipment located at the Coast Guard base.

This rulemaking attempts to solve the problem by prohibiting all persons and vessels from entering in, transiting through or remaining in a security zone extending 100 yards seaward from the water's edge of the Coast Guard La Puntilla facility.

Discussion of Comments and Changes

No comments were received as a result of publishing the NPRM; therefore no changes have been made to the regulatory text.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This rule is not a significant regulatory action because the security zone only extends 100 yards from Base San Juan and does not impede any regular vessel traffic (i.e., cruise ships, ferries, small passenger vessels, etc.). Vessels will be able to transit safely around the zone. In the event that a vessel or person feels the need to temporarily transit through the proposed security zone, the COTP will handle the requests on a case-by-case basis.

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 would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the proposed zone. The impact would not be economically significant because vessels would be able to transit around the zone. The zone does not encompass any portions of any shipping channels and would only affect those vessels transiting the area adjacent to the Coast Guard facility.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture

Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2, figure 2–1, paragraph (34)(g), of the Instruction. Paragraph (34)(g) covers regulations establishing, disestablishing, or changing security zones. This rule involves establishing a security zone at the Coast Guard Base in San Juan, Puerto Rico.

Neither an environmental assessment nor an environmental impact statement is required. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.776 to read as follows:

§ 165.776 Security Zone; Coast Guard Base San Juan, San Juan Harbor, Puerto Rico

(a) *Location*. The following area is a security zone: All waters from surface to bottom, encompassed by an imaginary line connecting the following points, beginning at 18°27′39″ N, 066°06′56″ W; then east to Point 2 at 18°27′39″ N, 066°06′52″ W; then south to Point 3 at 18°27′35″ N, 066°06′52″ W; then southwest to Point 4 at 18°27′30″ N, 066°06′59″ W; then northeast to Point 5 at 18°27′25″ N, 066°07′07″ W; then north to Point 6 at 18°27′46″ N, 066°07′10″ W; then back to shore at the northwest end of the CG facility at Point 7 at 18°27′46″ N, 066°07′07″ W. These coordinates are based upon North American Datum 1983.

(b) *Definitions*. As used in this section—

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

(c) *Regulations*. (1) No person or vessel may enter into the security zone described in paragraph (a) of this section unless authorized by the Captain of the Port San Juan.

(2) Vessels seeking to enter the security zone established in this section may contact the COTP on VHF channel 16 or by telephone at (787) 289–2041 to request permission.

Dated: February 5, 2009.

E. Pino,

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

[FR Doc. E9–4812 Filed 3–5–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XN55

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the Florida east coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, March 6, 2009, until 12:01 a.m., local time, April 1, 2009.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305, e-mail: *Susan.Gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001) NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. The commercial quota implemented for the Florida east coast subzone is 1,040,625 lb (472,020 kg) (50 CFR 622.42(c)(1)(i)(A)(*1*)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, by filing a notification at the Office of the **Federal Register**. NMFS has determined that the commercial quota for Gulf group king mackerel in the Florida east coast subzone will be reached on March 6, 2009. Accordingly, the commercial fishery for king mackerel in the Florida east coast subzone is closed at 12:01 a.m., local time, March 6, 2009, until 12:01 a.m., local time, April 1, 2009.

From November 1 through March 31 the Florida east coast subzone of the Gulf group king mackerel is that part of the eastern zone north of 25°20.4′ N. lat. (a line directly east from the Miami-Dade/Monroe County, FL, boundary) to 29°25′ N. lat. (a line directly east from the Flagler/Volusia County, FL, boundary). Beginning April 1, the boundary between Atlantic and Gulf groups of king mackerel shifts south and west to the Monroe/Collier County boundary on the west coast of Florida. From April 1 through October 31, king mackerel harvested along the east coast of Florida, including all of Monroe County, are considered to be Atlantic group king mackerel.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has already been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: March 2, 2009.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–4789 Filed 3–3–09; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 090206152–9249–01]

RIN 0648–AX61

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Emergency Rule

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

ACTION: Temporary rule; emergency action; request for comments.

SUMMARY: NMFS is implementing emergency measures to reduce the target total allowable catch (TAC) and associated days-at-sea (DAS) allocations in the Atlantic deep-sea red crab fishery, based on new scientific information. The red crab stock was assessed by the Data Poor Stocks Working Group in the fall of 2008, and a final report published in January 2009 indicates that the current estimate of maximum sustainable yield (MSY) for red crab is no longer reliable. The actions of this final rule are necessary to comply with the objectives of the Deep-Sea Red Crab Fishery Management Plan (FMP), as well as to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action is intended to prevent unsustainable fishing of the red crab resource.

DATES: This rule is effective April 6, 2009, through September 2, 2009.

Comments must be received by 5 p.m. local time, on April 6, 2009.

ADDRESSES: You may submit comments, identified by RIN 0648–AX61, by any one of the following methods:

• Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*

• Mail and hand delivery: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Deep-Sea Red Crab Emergency Action.''

• Fax: (978) 281–9135. Send the fax to the attention of the Sustainable Fisheries Division. Include ''Comments on Deep-Sea Red Crab Emergency Action'' prominently on the fax.

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 (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Environmental Assessment (EA) and Regulatory Impact Review (RIR) prepared for this rule are available from the Regional Administrator at the above address.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: The Red Crab FMP was established on October 21, 2002 (67 FR 63222), and was intended to manage the red crab fishery and prevent unsustainable fishing of the red crab resource. The management unit specified in the FMP includes red crab (*Chaceon quinquedens*) in U.S. waters of the Atlantic Ocean from 35° 15.3′ N. lat. (the latitude of Cape Hatteras Light, North Carolina) northward to the U.S./Canada border. The Red Crab FMP was adjusted once, by Framework Adjustment (FW) 1 (August 31, 2005, 70 FR 44066.) FW 1 established a multi-year specifications process and established the specifications through fishing year (FY) 2007. The specifications established for FY 2007 were continued without action into FY 2008, as allowed under the regulations, because there was no new information that would have indicated a change was required.

In the fall of 2008, NMFS' Northeast Fisheries Science Center convened a panel of stock assessment biologists and fishery managers, known as the Data Poor Stocks Working Group, to evaluate the biological reference points and status of several fishery stocks that have proven challenging to assess using traditional stock assessment methods. The results and recommendations of the Working Group were peer-reviewed by a panel of outside scientists composed of relevant experts primarily from the Scientific and Statistical Committees of the Mid-Atlantic and New England Fishery Management Councils (Review Panel). One of the stocks considered by the Working Group and Review Panel was Atlantic deep-sea red crab, a deep-water crustacean that lives off the continental shelf along the east coast of the United States and that supports a small but valuable fishery. The fishery is managed under the Red Crab FMP, as developed by the New England Fishery Management Council (Council) and implemented in 2002. The FMP established a limited access permit program, per trip possession limits, gear requirements, and a DAS program for the limited access permit vessels, among other measures. DAS are assigned to each limited access permit holder based on a fleet-wide allocation of DAS that is calculated to achieve, but not exceed, the target TAC. Every year since the FMP was implemented, the target TAC has been 5.928 million lb (2,688 mt), and the limited access fleet has been allocated 780 DAS, divided evenly among the limited access permit vessels.

Fishery-independent data on the deep-sea red crab are sparse, and only two surveys have been conducted on the stock since the early 1970's, one in 1974 and another during 2003–2005. Little is known about the biology and ecology of the species, and quantitative estimates of life history traits are almost entirely lacking. Fishery-dependent data, particularly for the years prior to implementation of the FMP in 2002, are somewhat unreliable. The Working Group considered all available information on the species and its fishery, and presented its findings and recommendations to the Review Panel. Although the Review Panel was not able to recommend new biological reference points for the stock due to existing data limitations, it noted substantial uncertainty in all reference point estimates and recommended consideration of additional fishery-independent survey work and several avenues of research that would be useful for management. Most significant to the subject action, the Review Panel agreed with the Working Group that the estimate of MSY developed for the original FMP is no longer reliable as a foundation for setting biological reference points. The Review Panel concluded that an MSY in the range of 3.75 million–4.19 million lb (1,700–1,900 mt), instead of the estimate of 6.24 million lb (2,830 mt) in the FMP, represents the best available science for the stock. This is a 33– to 40–percent reduction in MSY from the original FMP.

As noted above, the primary constraint on the directed, limited access red crab fishery is a DAS program that is based on the annual target TAC, currently set at 5.928 million lb (2,689 mt). The FMP specifies that the target TAC is calculated as 95 percent of MSY, so a reduction in MSY would necessitate a reduction in the annual target TAC, which would then result in a reduction in the fleet DAS allocation. Based on the range for MSY recommended by the Working Group and Review Panel, the annual target TAC for the fishery needs to be reduced to between 3.56 million lb (1,615 mt) and 3.98 million lb (1,805 mt). Such a reduction in the target TAC would require that the annual DAS allocated to the fleet also be reduced from 780 DAS to between 582 and 651 DAS.[1]

The regulations governing the red crab fishery, found at subpart M of 50 CFR part 648, stipulate that ''The target TAC for each fishing year will be 5.928 million lb (2,689 mt, unless modified pursuant to this paragraph,'' and that ''Each limited access permit holder shall be allocated 156 DAS'' (780 DAS divided between the five limited access permit holders) ''unless . . . the TAC is adjusted.'' The Red Crab FMP established a fishing year that begins on March 1 of each year, through the last day of February. Because the results of the Data Poor Stocks Workshop and peer review were not available until January 20, 2009, and the fishing year started on March 1, 2009, there was insufficient time for the Council to consider this new scientific information and prepare and submit revised specifications for the 2009 fishing year. Also, because a 33- to 40–percent reduction in the target TAC, with a similar reduction in the DAS allocation, is required in order to bring the management measures into compliance

[1] Rather than a simple proportional reduction in the DAS allocation (i.e., a 33– to 40–percent reduction from the current 780 DAS), the proposed DAS range is based on updated average landings per DAS in the red crab fishery for the fishing years 2005–2008.

with the best available science on the red crab stock and to minimize the risk that unsustainable fishing will occur, NMFS is implementing emergency measures under section 305(c) of the Magnuson-Stevens Act.

The Council intends to incorporate the results of the Data Poor Stocks Workshop and peer review into the development of specifications for the 2010 fishing year and an amendment to the FMP intended to address the new annual catch limit and accountability measure requirements of the reauthorized Magnuson-Stevens Act. For the intervening year, NMFS is implementing the following as emergency measures: (1) A reduction in the 2009 target TAC to 3.56 million lb (1,615 mt); and (2) a reduction in the number of DAS initially allocated to each of the five limited access permit holders to 116 DAS. A target TAC of 3.56 million lb (1,615 mt) represents 95 percent of the lower bound of the MSY range recommended by the Working Group and Review Panel. With no guidance from the Review Panel other than the substantial degree of uncertainty noted regarding the available data, NMFS intends to set specifications in a precautionary manner until the Council can more fully consider the implications of this new scientific information. An initial per vessel DAS allocation of 116 DAS represents a fleet allocation of 582 DAS, divided by the five current limited access permits. There is a provision in the Red Crab FMP that if one or more limited access permit holders formally declares out of the directed red crab fishery for an entire fishing year, that the DAS initially allocated to that permit are to be distributed equally to the remaining permit holders. As has occurred each year since 2003, one of the limited access permits has been declared out of the fishery for the 2009 fishing year. The resulting DAS allocation will be 146 DAS for each of the remaining four limited access permit holders. NMFS is implementing no other changes to the management measures governing the red crab fishery at this time.

A revised target TAC of 3.56 million lb (1,615 mt) represents a 40–percent reduction in the target TAC from that available to the fishery in fishing year 2008, and the revised fleet DAS allocation of 582 DAS represents a 25.3–percent reduction in allocated DAS. The FMP provides that DAS allocations are to be updated through the specifications process by using the most recent available data to determine the pounds of red crab landed per DAS, on average, and then dividing the annual target TAC by this amount. Using updated landings and DAS usage information from fishing years 2005–2008, the average landings of red crab by the limited access fleet is just over 6,100 lb/DAS (2,767 kg/DAS). This is a decrease from the nearly 7,600 lb/DAS (3,447 kg/DAS) used in the FMP and subsequently in the specifications process, and represents a decline in catch-per-unit-effort (CPUE) that is intended to be addressed in the DAS allocation. Reasons for such a decline in CPUE may include a decrease in the exploitable biomass of the red crab resource, inter-annual variability in the availability of red crabs to the fishery, an increase in vessel search time, an increase in distance traveled from port to the fishing grounds, or a decline in trip duration. Failing to account for this decline in CPUE in setting the DAS allocation under this rule (i.e., maintaining the same 7,600 lb/DAS (3,447 kg/DAS) to determine the DAS allocation for the revised target TAC) would result in fewer DAS allocated to the fleet (468 DAS instead of 582 DAS). Given the decline in CPUE evidenced by the decrease in landings per DAS, a lower fleet DAS allocation would likely result in the fleet being unable to attain the target TAC.

NMFS has determined that this action complies with agency guidance for implementation of emergency measures under section 305(c) of the Magnuson-Stevens Act (August 21, 1997, 62 FR 44421). The situation this rule is intended to address:''(1) Results from the recently published (January 20, 2009) final report of the Data Poor Stocks Working Group and Review Panel indicating that, based on the best available scientific information, the MSY for red crab is 33–40 percent less than previously estimated; (2) presents serious conservation and management problems in the fishery, which, if left unaddressed, would likely result in unsustainable fishing of the red crab stock; and (3) can be addressed through these emergency regulations to immediately reduce the annual target TAC and DAS allocations for the 2009 fishing year in order to prevent unsustainable fishing.'' Without this action, unsustainable fishing is likely, which could cause more significant long-term impacts on the red crab resource and fishery than the short-term impacts to the fishery expected from this emergency action.'' The basis for taking this action is ecological in nature in that it is intended to prevent unsustainable fishing.

Classification

The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest. This emergency action responds to the requirements of the Magnuson-Stevens Act to prevent unsustainable fishing and ensure that conservation and management measures are based on the best available scientific information.

The results of the Data Poor Stocks Working Group and Review Panel assessment of the red crab stock clearly indicate that the estimate of MSY used to establish a target TAC of 5.928 million lb (2,689 mt) does not represent the best available scientific information, and that a target TAC of between 3.56 million lb (1,615 mt) and 3.98 million lb (1,805 mt), with the appropriate reductions in DAS, is necessary to ensure that unsustainable fishing does not occur on the resource. NMFS must take every action possible to stop unsustainable fishing and prevent it from occurring in the fishing year that began on March 1, 2009.

Until this rule is effective, commercial fishermen are authorized to fish substantially more DAS, with a significantly higher target TAC, than what the resource can support according to the best available scientific information. If effectiveness of the rule is delayed in order to allow prior notice and comment, the existing management measures that were designed to attain a higher TAC would be inconsistent with the revised estimate of MSY for the stock. Waiver of the notice-and-comment rulemaking period will serve the public and the resource by ensuring measures sufficient to prevent unsustainable fishing are implemented in a timely fashion for the 2009 fishery that began on March 1, 2009.

NMFS did not initiate the emergency action earlier because the report of the Data Poor Stocks Working Group and Review Panel was not finalized and released until January 20, 2009, only 39 days before the start of the 2009 fishing year.

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

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 U.S.C. 553 or any other law.

Dated: March 3, 2009

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.260, paragraph (a)(1) is suspended and paragraph (a)(4) is added to read as follows:

§ 648.260 Specifications.

(a) * * *

(4) *Target total allowable catch.* The target TAC for fishing year 2009 will be 3.560 million lb (1,615 mt), unless modified pursuant to this paragraph.

* * * * *

■ 3. In § 648.262, paragraph (b)(2) is suspended and paragraph (b)(7) is added to read as follows:

§ 648.262 Effort-control program for red crab limited access vessels.

(b) * * *

(7) *For fishing year 2009.* Each limited access permit holder shall be allocated 116 DAS unless one or more vessels declares out of the fishery consistent with § 648.4(a)(13)(i)(B)(*2*) or the TAC is adjusted consistent with § 648.260.

[FR Doc. E9–4795 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344–9056–02]

RIN 0648–XN53

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is reopening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to fully use the A season allowance of the 2009 total allowable catch (TAC) of pollock specified for Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 9, 2009, through 1200 hrs, A.l.t., March 10, 2009. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 18, 2009.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by 0648–XN53, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586–7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

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 (e.g., name, address) 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. Enter ''N/A'' in the required fields, if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson–Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on January 22, 2009 (74 FR 5625, January 30, 2009).

NMFS has determined that approximately 1,524 metric tons of pollock remain in the directed fishing allowance in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2009 TAC of pollock in Statistical Area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 26, 2009. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the TAC of pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 18, 2009.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 3, 2009.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–4793 Filed 3–3–09; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 43
Friday, March 6, 2009

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–2009–0198; Directorate Identifier 2008–NM–129–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Fokker Model F.28 Mark 0100 airplanes. The existing AD currently requires revisions to the airplane flight manual (AFM) to include procedures to prohibit use of reverse engine thrust power settings between idle and emergency maximum and to prohibit stabilized engine operation in a certain engine speed range on the ground. This proposed AD would continue to require revising the AFM to include certain procedures. This proposed AD would also require removing the normal maximum (second) detent for the reverse-thrust control. In addition, this proposed AD would require revising the AFM to prohibit use of reverse thrust in flight and to limit operation of Max Reverse thrust. This proposed AD results from issuance of mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are proposing this AD to prevent inadvertent operation in the prohibited stabilized engine speed range on the ground, which could result in uncontained engine fan blade failure due to high cycle fatigue cracking.

DATES: We must receive comments on this proposed AD by April 6, 2009.

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 Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; e-mail *technicalservices.fokkerservices@stork.com*; Internet *http://www.myfokkerfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

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–2009–0198; Directorate Identifier 2008–NM–129–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

On March 5, 1998, we issued AD 98–06–07, amendment 39–10384 (63 FR 11985, March 12, 1998), for certain Fokker Model F.28 Mark 0100 airplanes. That AD requires revisions to the airplane flight manual (AFM) to include procedures to prohibit use of reverse engine thrust power settings between idle and emergency maximum and to prohibit stabilized engine operation in a certain engine speed range on the ground. That AD resulted from issuance of mandatory continuing airworthiness information by an aviation authority of another country. We issued that AD to prevent stabilized engine operation in a certain engine speed range on the ground, which could result in uncontained engine fan blade failure due to high cycle fatigue cracking.

Actions Since Existing AD Was Issued

The preamble to AD 98–06–07 explains that we consider the requirements ''interim action'' and were considering further rulemaking. In concert with the European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union, we now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Relevant Service Information

Fokker Services B.V. has issued Service Bulletin SBF100–76–014, Revision 2, dated December 12, 2007. The service bulletin describes procedures for removing the normal maximum (second) detent for the

reverse-thrust control. The EASA mandated the service information and issued Airworthiness Directive 2008–0089, dated May 13, 2008 (referred to after this as ''the MCAI''), to ensure the continued airworthiness of these airplanes in the European Union.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD 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.

This proposed AD would supersede AD 98–06–07 and continue to require revising the AFM to include procedures prohibiting stabilized engine operation in a certain engine speed range on the ground. This proposed AD would also require removing the normal maximum (second) detent for the reverse-thrust control. In addition, this proposed AD would require revising the AFM to prohibit use of reverse thrust in flight and to limit operation of Max Reverse thrust.

Change to Existing AD

This proposed AD would retain a certain requirement of AD 98–06–07. Since AD 98–06–07 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 98–06–07	Corresponding requirement in this proposed AD
paragraph (b)	paragraph (g).

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AFM revision (required by AD 98–06–07)	1	$80	$80	5	$400
Removal of second detent (new proposed action)	3	80	240	5	1,200
AFM revision (new proposed action)	1	80	80	5	400

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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–10384 (63 FR 11985, March 12, 1998) and adding the following new airworthiness directive (AD):

Fokker Services B.V.: Docket No. FAA–2009–0198; Directorate Identifier 2008–NM–129–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 6, 2009.

Affected ADs

(b) This AD supersedes AD 98–06–07.

Applicability

(c) This AD applies to Fokker Model F.28 Mark 0100 airplanes, certificated in any category, equipped with Rolls-Royce (RR) TAY 650–15 engines.

Subject

(d) Air Transport Association (ATA) of America Code 76: Engine controls.

Unsafe Condition

(e) This AD results from issuance of mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to prevent inadvertent operation in the prohibited stabilized engine speed range on the ground, which could result in uncontained engine fan blade failure due to high cycle fatigue cracking.

Compliance

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

Certain Requirement of AD 98–06–07

Airplane Flight Manual (AFM) Revision

(g) Within 72 hours after March 27, 1998 (the effective date of AD 98–06–07), revise the Limitations Section of the FAA-approved AFM to add the following. This may be accomplished by inserting a copy of this AD in the AFM.

''LIMITATIONS POWERPLANT AND APU LIMITATIONS

OPERATING LIMITS

• To avoid high fan blade stresses, stabilized operation in the speed range between 60% and 75% Low Pressure Rotational Speed (N1) is not permitted during Ground Operations in Forward or Reverse Thrust, except that passing through this range while increasing or decreasing thrust is permitted.

THRUST REVERSER

Thrust reversers are intended for ground use only. Intentional use of reverse thrust in flight is prohibited. After reverse thrust has been initiated, a full stop landing must be made.

Maximum Reverse Thrust Lever Positions

Normal Operation:

—The idle detent position shall not be exceeded in normal operation.
—Momentarily exceeding the idle detent position, while selecting idle reverse, is acceptable.

Emergency Operation:

—In case of emergency, the emergency maximum reverse thrust may be used.
—If directional control problems occur, reduce to idle reverse or select forward idle.
—Stabilized operation with the reverse lever in an intermediate position between idle reverse and emergency maximum reverse is prohibited, except (where approved) during Power-Back operations.''

Note 1: Fokker Services Manual Change Notification—Operational Documentation (MCNO) No. F100–006, dated November 27, 1997, contains information that pertains to this subject. Rolls-Royce PLC Engine Operating Instruction Manual Reference F–TAY–3RR, revised by transmittal letter No. 13, dated October 15, 1997, also pertains to this subject.

New Actions Required by This AD

Removal of Normal Maximum Detent

(h) Within 12 months after the effective date of this AD, remove the normal maximum (second) detent for the reverse-thrust control, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–76–014, Revision 2, dated December 12, 2007. Accomplishing the removal terminates the requirements of paragraph (g) of this AD.

(i) Actions done before the effective date of this AD in accordance with Fokker Service Bulletin SBF100–76–014, dated October 1, 2001; or Revision 1, dated June 1, 2002; are acceptable for compliance with the requirements of paragraph (h) of this AD.

AFM Revision

(j) Concurrently with the requirements of paragraph (h) of this AD, revise the Limitations Section of the Fokker F.28 Mark 0100 AFM to include the following (this may be accomplished by inserting a copy of this AD into the AFM):

''THRUST REVERSERS

Thrust reversers are intended for ground use only. Intentional use of reverse thrust in flight is prohibited.

The use of Max Reverse thrust is limited to operations on short runways or on runways with a reduced runway surface friction coefficient or in emergency conditions. Max Reverse thrust shall not be used at airspeeds below 60 knots except in emergency conditions.

Reverse thrust selections between Idle Reverse thrust and Max Reverse thrust are prohibited.''

Note 2: Fokker Manual Change Notification—Operational Documentation (MCNO) F100–032, Revision 1, dated September 21, 2007, contains information related to the AFM revision required by paragraph (j) of this AD.

Alternative Methods of Compliance (AMOCs)

(k) The Manager, International Branch, ANM–116, 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

Related Information

(l) The European Aviation Safety Agency Airworthiness Directive 2008–0089, dated May 13, 2008, also addresses the subject of this AD.

Issued in Renton, Washington, on February 20, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–4731 Filed 3–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0669; Directorate Identifier 2007–NM–350–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Boeing Model 737–600, –700, and –800 series airplanes. The original NPRM would have required an inspection of the free flange of the lower stringers of the wing center section for drill starts, and applicable related investigative and corrective actions. The original NPRM resulted from drill starts being found on the free flange of the lower stringers of the wing center section during a quality assurance inspection at the final assembly plant. This action revises the original NPRM by expanding the inspection area to include the free flange, the vertical web, and the fillet radius between the vertical web and the free flange. We are proposing this supplemental NPRM to prevent cracks from propagating from drill starts in the free flange, vertical web, and radius between the free flange and vertical web of the lower stringers of the wing center section lower stringers, which could cause a loss of structural integrity of the wing center section and may result in a fuel leak.

DATES: We must receive comments on this supplemental NPRM by March 31, 2009.

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 proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; telephone 206–544–9990; fax 206–766–5682; e-mail *DDCS@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

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: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; 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–2008–0669; Directorate Identifier 2007–NM–350–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 737–600, –700, and –800 series airplanes. That original NPRM was published in the **Federal Register** on June 24, 2008 (73 FR 35593). That original NPRM proposed to require inspecting the free flange of the lower stringers of the wing center section for drill starts, and applicable related investigative and corrective actions.

Comments

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

Request To Clarify Inspection Requirements

Boeing notes that the original NPRM would have required an inspection of the free flange of the stringer, whereas paragraph 3.B.2. of the Accomplishment Instructions in Boeing Alert Service Bulletin 737–57A1294, dated April 23, 2007, calls for inspection as given in Figure 1 of the service bulletin. Figure 1 specifies that the free flange, vertical web, and radius between the free flange and vertical web must be inspected. (The original NPRM referred to this service bulletin as the appropriate source of service information for the proposed actions.) The commenter requests that we clarify whether the inspection area is to include the free flange, vertical web, and the fillet radius.

We agree that the original NPRM is unclear whether the inspection area includes all three parts of the stringer. The service bulletin does not consistently include all three parts of the stringer. The ''Background'' section, the ''Action'' section, Paragraph 1.C., ''Reason,'' Paragraph 1.D., ''Description,'' and Paragraph 3.B., ''Work Instructions,'' refer only to the free flange for the inspection. Only a note in Figure 1, Sheet 4, contains any reference to all three areas of inspection—free flange, vertical web, and the fillet radius. We have determined that all three areas must be inspected to adequately address the identified unsafe condition. We have revised paragraph (g) of the supplemental NRPM to explicitly state these three areas of inspection. We have also revised the description of the area in the summary and paragraph (e) of the supplemental NPRM.

Actions Since the Original NPRM Was Issued

We have added a new paragraph (d) to this proposed AD to specify the Air Transport Association (ATA) of America code identifying the subject, and re-identified the 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. The change described above expands 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

We estimate that this proposed AD would affect 17 airplanes of U.S. registry. We also estimate that it would take 7 work-hours per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $9,520, or $560 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

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–2008–0669; Directorate Identifier 2007–NM–350–AD.

Comments Due Date

(a) We must receive comments by March 31, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, and –800 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–57A1294, dated April 23, 2007.

Subject

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

Unsafe Condition

(e) This AD results from drill starts being found on the free flange of the lower stringers of the wing center section during a quality assurance inspection at the final assembly plant. We are issuing this AD to prevent cracks from propagating from drill starts in the free flange, vertical web, and radius between the free flange and vertical web of the lower stringers of the wing center section lower stringers, which could cause a loss of structural integrity of the wing center section and may result in a fuel leak.

Compliance

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

Inspection and Related Investigative and Corrective Actions

(g) Before the accumulation of 18,000 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later, do a detailed inspection of the free flange, vertical web, and radius between the free flange and vertical web of the lower stringers of the wing center section for any drill start, and do all applicable related investigative and corrective actions, by accomplishing all the applicable actions specified in paragraphs 3.B.2 and 3.B.4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1294, dated April 23, 2007; except as provided in paragraph (h) of this AD. The applicable related investigative and corrective actions must be done before further flight.

(h) If any crack is found during any inspection required by paragraph (g) of this AD, and Boeing Alert Service Bulletin 737–57A1294, dated April 23, 2007, specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle 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: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590.

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

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

Issued in Renton, Washington, on February 20, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–4732 Filed 3–5–09; 8:45 am]

BILLING CODE 4910–13–P

Notices

Federal Register
Vol. 74, No. 43
Friday, March 6, 2009

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0141]

Availability of an Environmental Assessment for a Biological Control Agent for Arundo donax

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment relative to the control of *Arundo donax* (giant reed, Carrizo cane). The environmental assessment considers the effects of, and alternatives to, the release of a wasp, *Tetramesa romana*, into the continental United States for use as a biological control agent to reduce the severity of *A. donax* infestations. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before April 6, 2009.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0141* to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send two copies of your comment to Docket No. APHIS–2008–0141, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0141.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Carmen Soileau, Senior Entomologist, Evaluation and Permitting of Regulated Organisms and Soil, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1237; (301) 734–5055.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the release of a wasp, *Tetramesa romana*, into the continental United States for use as a biological control agent to reduce the severity of *Arundo donax* infestations.

A. donax is a highly invasive, bamboo-like weed that was introduced to North America in the early 1500s for its fiber uses. It is among the fastest growing plants in the continental United States, making it a severe threat to riparian areas, where it causes erosion, damages bridges, alters channel morphology, increases costs for chemical and mechanical control along transportation corridors, and impedes law enforcement activities along international borders. Additionally, *A. donax* consumes excessive amounts of water, competing for water resources in arid regions where these resources are critical to the environment, agriculture, and municipal users.

Existing *A. donax* management options include herbicides, prescribed fires, biomass removal, and other methods. However, these management measures are ineffective, expensive, temporary, and have impacts on species other than *A. donax*. Therefore, APHIS is proposing to issue permits for the release of a wasp, *T. romana*, into the continental United States in order to reduce the severity and extent of *A. donax* infestations.

The proposed biological control agent, *T. romana*, is a wasp in the insect family Eurytomidae. It has a widespread presence around the Mediterranean basin, from Turkey to Spain and Morocco, and was also found at one site in southern Africa and one site in China. Two populations of *T. romana* have recently been discovered near Santa Barbara, CA, and in Austin, TX. The establishment of *T. romana* in Texas indicates that the wasp has a moderate level of cold hardiness and is therefore expected to establish throughout the range of *A. donax*.

Female wasps lay their eggs inside the shoot cavity of the target weed, *A. donax*. A few days after eggs are laid, an abnormal overgrowth of plant tissue called gall tissue develops inside the *A. donax* shoot cavity. The wasp larvae feed on the expanding gall tissue during their 26- to 48-day generation period, resulting in stunted stem growth and sometimes death of the stem.

Field studies were conducted throughout Mediterranean Europe to test the host specificity of *T. romana* using non-target species that were morphologically similar to *A. donax* or native to the southern United States. The development of *T. romana* was recorded only on *A. donax* and *A. formosana*, an exotic ornamental plant native to Taiwan, with greater reproduction and faster development time on *A. donax*. Based on these studies, *T. romana* is determined to be host specific to the *Arundo* genus.

T. romana may not be successful in reducing the *A. donax* population in the continental United States, but its use is expected to be effective in combination with other control methods or biological control agents that may be released in the future.

APHIS' review and analysis of the proposed action are documented in detail in an environmental assessment (EA) entitled ''Field Release of the Arundo Wasp, *Tetramesa romana* (Hymenoptera: Eurytomidae), an Insect for Biological Control of *Arundo donax* (Poaceae), in the Continental United States'' (October 2008). We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The EA may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the environmental EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 3rd day of March 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–4881 Filed 3–5–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Supplemental Nutrition Assistance Program, Administrative Review Requirements—Food Retailers and Wholesalers

AGENCY: Food and Nutrition Service (FNS), 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 proposed information collections. The proposed collection is a revision of a currently approved collection.

DATES: Written comments must be received on or before May 5, 2009 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 has 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 that were 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Andrew Furbee, Acting Chief, Administrative Review Branch, Benefit Redemption Division, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 608, Alexandria, Virginia 22302. Comments may also be submitted via fax to the attention of Andrew Furbee at (703) 305–2821, or via e-mail to *brdhq-web@fns.usda.gov*.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22303, Room 608.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Andrew Furbee, (703) 305–2822.

SUPPLEMENTARY INFORMATION:

Title: Request for Administrative Review.

OMB Number: 0584–0520.

Expiration Date: July 31, 2009.

Type of Request: Revision of a currently approved collection of information.

Abstract: The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal agency responsible for the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program. The Food and Nutrition Act of 2008 (7 U.S.C. 2011–2036) requires that the FNS determine the eligibility of retail food stores and certain food service organizations in order to participate in SNAP. If a food retailer or wholesale food concern is aggrieved by certain administrative action by FNS, that store has the right to file a written request for review of the administrative action with FNS.

Respondents: Retail food stores and wholesale food concerns.

Estimated Number of Respondents: 589.

Number of Responses per Respondent: 1.2.

Estimated Time per Response: Public reporting burden for this collection of information is estimated to average 0.17 of an hour per response.

Estimated Total Annual Burden on Respondents: 120.16 hours.

Dated: March 3, 2009.

E. Enrique Gomez,

Acting Administrator, Food and Nutrition Service.

[FR Doc. E9–4817 Filed 3–5–09; 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: *Effective Date:* July 1, 2009.

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 2009 was published by the Department of Health and Human Services (HHS) at 74 FR 4199, January 23, 2009. 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, 2009, through June 30, 2010. 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, 2009.

State agencies that do not coordinate implementation with the revised Medicaid guidelines must implement the WIC income eligibility guidelines on July 1, 2009. 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: March 3, 2009.

E. Enrique Gomez,

Acting Administrator.

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 2009 to June 30, 2010]

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, D.C., Guam and Territories										
1	$10,830	$903	$452	$417	$209	$20,036	$1,670	$835	$771	$386
2	14,570	1,215	608	561	281	26,955	2,247	1,124	1,037	519
3	18,310	1,526	763	705	353	33,874	2,823	1,412	1,303	652
4	22,050	1,838	919	849	425	40,793	3,400	1,700	1,569	785
5	25,790	2,150	1,075	992	496	47,712	3,976	1,988	1,836	918
6	29,530	2,461	1,231	1,136	568	54,631	4,553	2,277	2,102	1,051
7	33,270	2,773	1,387	1,280	640	61,550	5,130	2,565	2,368	1,184
8	37,010	3,085	1,543	1,424	712	68,469	5,706	2,853	2,634	1,317
Each Add'l Member Add	+$3,740	+$312	+$156	+$144	+$72	+$6,919	+$577	+$289	+$267	+$134
Alaska										
1	$13,530	$1,128	$564	$521	$261	$25,031	$2,086	$1,043	$963	$482
2	18,210	1,518	759	701	351	33,689	2,808	1,404	1,296	648
3	22,890	1,908	954	881	441	42,347	3,529	1,765	1,629	815
4	27,570	2,298	1,149	1,061	531	51,005	4,251	2,126	1,962	981
5	32,250	2,688	1,344	1,241	621	59,663	4,972	2,486	2,295	1,148
6	36,930	3,078	1,539	1,421	711	68,321	5,694	2,847	2,628	1,314
7	41,610	3,468	1,734	1,601	801	76,979	6,415	3,208	2,961	1,481
8	46,290	3,858	1,929	1,781	891	85,637	7,137	3,569	3,294	1,647
Each Add'l Member Add	+$4,680	+$390	+$195	+$180	+$90	+$8,658	+$722	+$361	+$333	+$167
Hawaii										
1	$12,460	$1,039	$520	$480	$240	$23,051	$1,921	$961	$887	$444
2	16,760	1,397	699	645	323	31,006	2,584	1,292	1,193	597
3	21,060	1,755	878	810	405	38,961	3,247	1,624	1,499	750
4	25,360	2,114	1,057	976	488	46,916	3,910	1,955	1,805	903
5	29,660	2,472	1,236	1,141	571	54,871	4,573	2,287	2,111	1,056
6	33,960	2,830	1,415	1,307	654	62,826	5,236	2,618	2,417	1,209
7	38,260	3,189	1,595	1,472	736	70,781	5,899	2,950	2,723	1,362
8	42,560	3,547	1,774	1,637	819	78,736	6,562	3,281	3,029	1,515

INCOME ELIGIBILITY GUIDELINES—Continued

[Effective from July 1, 2009 to June 30, 2010]

Household size	Federal poverty guidelines—100%					Reduced price meals—185%				
	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly
Each Add'l Member Add	+4,300	+$359	+$180	+$166	+$83	+$7,955	+$663	+$332	+$306	+$153

[FR Doc. E9–4823 Filed 3–5–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Withdrawal for Notice of Intent To Prepare an Environmental Impact Statement for the Rio Grande National Forest; Colorado; Wolf Creek Access Project

AGENCY: Forest Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: On September 23, 2008, a Notice of Intent (NOI) to prepare an Environmental Impact Statement for the Wolf Creek Access Project was published in the 73 FR 54786. This NOI is hereby rescinded because the project has been cancelled.

Dated: February 12, 2009.

Dan S. Dallas,

Forest Supervisor/Center Manager.

[FR Doc. E9–4771 Filed 3–5–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Fresno County Resource Advisory Committee will be meeting in Prather, California on March 31st and Clovis, California on April 2nd. The purpose of the meeting on March 31st will be to accept and review project proposals. The purpose of the April 2nd meeting will be to approve and vote on projects.

DATES: The meetings will be held on March 31, 2009 from 6 p.m. to 8:30 p.m. in Prather, CA and April 2, 2009 from 6 p.m. to 9 p.m. in Clovis, CA.

ADDRESSES: The meeting on March 31st will be held at the High Sierra Ranger District, 29688 Auberry Rd., Prather, CA and the meeting on April 2 will be held at the Sierra National Forest Supervisor's Office, 1600 Tollhouse Rd., Clovis, CA. Send written comments to Robbin Ekman, Fresno County Resource Advisory Committee Coordinator, c/o Sierra National Forest, High Sierra Ranger District, 29688 Auberry Road, Prather, CA 93651 or electronically to *rekman@fed.us.*

FOR FURTHER INFORMATION CONTACT: Robbin Ekman, Fresno County Resource Advisory Committee Coordinator, (559) 855–5355 ext. 3341.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Payments to States Fresno County Title II project matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Those who wish to be put on the meeting agenda to present a project proposal must contact Robbin Ekman, Committee Coordinator 1 week prior to the March 31st meeting. Agenda items to be covered include: (1) Review Project Proposals.

Dated: February 25, 2009.

Ray Porter,

District Ranger.

[FR Doc. E9–4576 Filed 3–5–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be having the routine monthly meeting with project presentations and hold a short public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 110–343) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 110–343). The meeting is open to the public.

DATES: The meeting will be held on March 24, 2009, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest Supervisor Office, 1801 N. First, Hamilton, Montana. Send written comments to Daniel Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Daniel Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: February 27, 2009.

Julie K. King,

Deputy Forest Supervisor.

[FR Doc. E9–4727 Filed 3–5–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces the Grain Inspection, Packers and Stockyards Administration (GIPSA) intention to request an extension for and revision to a currently approved information collection related to the delivery of services conducted under the official inspection, grading and weighing programs authorized under the United States Grain Standards Act and the Agricultural Marketing Act of 1946. This voluntary survey would give GIPSA customers of the official inspection, grading and weighing programs, who are primarily in the grain, oilseed, rice, lentil, dry pea, edible bean and related agricultural commodity markets, an opportunity to provide feedback on the quality of services they receive and would provide

information on new services that customers would like to receive. This feedback would help GIPSA's Federal Grain Inspection Service (FGIS) improve services and service delivery provided by the official inspection, grading, and weighing system.

DATES: Written comments must be submitted on or before May 5, 2009.

ADDRESSES: We invite you to submit comments on this notice by any of the following methods:

- *E-Mail: comments.gipsa@usda.gov*.
- *Mail:* Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1643–S, Washington, DC 20250–3604.
- *Fax:* (202) 690–2173.
- *Hand Delivery or Courier:* Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1643–S, Washington, DC 20250–3604.
- *Internet:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

All comments should make reference to the date and page number of this issue of the **Federal Register**. The Information collection package and other documents relating to this action will be available for public inspection in the above office during regular business hours. All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Idelisse Rodriguez, Program Analyst, Market and Program Analysis Staff, e-mail address: *Idelisse.Rodriguez@usda.gov*, telephone (202) 720–5688.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (USGSA) (7 U.S.C. 71–87k), and the Agricultural Marketing Act of 1946, as amended (AMA) (7 U.S.C. 1621–1627), authorize the Secretary of Agriculture to establish official inspection, grading and weighing programs for grains and other agricultural commodities. Under the USGSA and AMA, GIPSA's FGIS offers inspection, weighing, grading, quality assurance and certification services for a user-fee to facilitate the efficient marketing of grain, oilseeds, rice, lentils, dry peas, edible beans, and related agricultural commodities in the global marketplace. Under FGIS oversight, the official inspection, grading, and weighing programs are a public-private partnership including Federal, State and private agencies, and provides official inspection, grading and weighing services to the domestic and export trade.

There are approximately 9,000 current users of the official inspection, grading and weighing programs. These customers are located nationwide and represent a diverse mixture of small, medium and large producers, merchandisers, processors, exporters and other financially interested parties. These customers request official services from an FGIS Field Office; delegated, designated, or cooperating State office; or designated private agency office.

The goal of FGIS and the official inspection, grading, and weighing system is to provide timely, high quality, accurate, consistent and professional service that facilitates the orderly marketing of grain and related commodities. To accomplish this goal and in accordance with Executive Order 12862, FGIS is seeking feedback from a representative sample of customers to evaluate the services provided by the official inspection, grading and weighing programs.

Title: Survey of Customers of the Official Inspection, Grading, and Weighing Programs (Grain and Related Commodities).

OMB Number: 0580–0018.

Expiration Date of Approval: July 31, 2009.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The collection of information using a voluntary customer service survey would provide a representative sample of paying customers of FGIS and the official inspection, grading and weighing programs an opportunity to evaluate, on a scale of one to five, the timeliness, cost-effectiveness, accuracy, consistency and usefulness of services and results, and the professionalism of employees. Customers will also have an opportunity to provide additional comments or indicate what new or existing services they would use if such services were offered or available.

FGIS needs to have a more formal means of determining customers' expectations of the quality of service that is delivered. To collect this information, FGIS would distribute, over a 3-year period, an annual voluntary customer service survey. FGIS plans to survey a statistically random sample of about 1,100 customers per year that is representative of the customers' population as a whole. The survey instrument consists of nine questions and any subsequent survey instruments would be tailored to earlier responses. In the near future, FGIS would like to make available to its customers an electronic version of the survey. The information collected from the survey will allow FGIS to gauge customers' satisfaction with existing services, compare results from year to year, and determine what new services that its customers desire. The survey assesses the timeliness, cost effectiveness, accuracy, consistency, and usefulness of FGIS services and results, as well as the professionalism of FGIS employees. Some examples of survey questions include the following: ''I receive results in a timely manner,'' ''Official results are accurate,'' and ''Inspection personnel are knowledgeable.'' These survey questions will be assessed using a one to five rating scale with responses ranging from ''strongly disagree'' to ''strongly agree'' or ''no opinion.'' Customers are also asked for which product they primarily request service, and what percentage of their product is officially inspected. Space is also available on the survey for the customer to provide additional comments or request new or existing services.

By obtaining information from customers through a voluntary customer service survey, FGIS can continue to improve services and service delivery provided by the official inspection, grading and weighing programs that meets or exceeds customer expectations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes (i.e., 0.167 hours) per response.

Respondents: The primary respondents will be a statistically random sample of direct paying customers of FGIS and the official inspection, grading, and weighing programs.

FY 2009: Estimated Number of Respondents: 605 (i.e., 1,100 total customers times 55% response rate = 605).

Frequency of Responses: 1.

Estimated Annual Burden: 101 hours. (605 responses times 0.167 hours/response = 101 hours).

FY 2010: Estimated Number of Respondents: 638 (i.e., 1,100 total customers times 58% response rate = 638).

Frequency of Responses: 1.

Estimated Annual Burden: 106 hours. (638 responses times 0.167 hours/response = 106 hours).

FY 2011: Estimated Number of Respondents: 660. (i.e., 1,100 total customers times 60% response rate = 660).

Frequency of Responses: 1.

Estimated Annual Burden: 110 hours. (660 responses times 0.167 hours/response = 110 hours).

Copies of this information collection can be obtained from Tess Butler, Grain

Inspection, Packers and Stockyards Administration at (202) 720–7486.

Comments: Comments are invited on: (a) Whether the collection of the information is necessary for the proper performance of the functions of FGIS, including whether the information will have a practical utility; (b) the accuracy of FGIS' estimate of the 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.

Comments should be addressed to Tess Butler, as referenced above. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Alan Christian,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E9–4786 Filed 3–5–09; 8:45 am]

BILLING CODE 3410–KD–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: 4/6/2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products:

NSN: 7510–00–079–7906—Tape, Pressure Sensitive, 2 inch Tan Package Sealing.
NPA: Cincinnati Association for the Blind, Cincinnati, OH.
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper products, New York, NY.
Coverage: A-list for the total Government requirement as aggregated by the General Services Administration.
NSN: 8415–01–568–1023—NAPE Pad, Ballistic.
NSN: 8415–01–568–1028—NAPE Pad, Ballistic.
NPA: Industries of the Blind, Inc., Greensboro, NC.
NPA: Alabama Industries for the Blind, Talladega, AL.
NPA: Susquehanna Association for the Blind and Visually Impaired, Lancaster, PA.
NPA: Lions Volunteer Blind Industries, Inc., Morristown, TN.
Contracting Activity: Dept. of the Army, XR W2DF RDECOM ACQ CTR NATICK, Natick, MA.
Coverage: C-list for the total U.S. Army requirement.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. E9–4783 Filed 3–5–09; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes products from the Procurement List that were being furnished by AbilityOne Program-associated nonprofit agencies.

DATES: *Effective Date:* April 6, 2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 11/21/2008 and 12/19/2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (73 FR 70617 and 73 FR 77608) of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in

connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

NSN: 7210–00–139–6376—Sheet, Bed, Disposable.
NPA: East Texas Lighthouse for the Blind, Tyler, TX.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.
NSN: 8455–01–396–2284—Badge, Identification.
NPA: East Texas Lighthouse for the Blind, Tyler, TX.
Contracting Activity: GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. E9–4784 Filed 3–5–09; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration (EDA).

Title: Application for Investment Assistance.

OMB Control Number: 0610–0094.

Form Number(s): ED–900.

Type of Request: Regular submission.

Burden Hours: 18,953.

Number of Respondents: 875

Average Hours Per Response: 22.

Needs and Uses: The Economic Development Administration's (EDA) mission is to lead the federal economic development agenda by promoting innovation and competitiveness, and preparing American regions for growth and success in the worldwide economy. This information collection is necessary to determine the applicant's eligibility for investment assistance under EDA's authorizing statute, the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 *et seq.*), and regulations (13 CFR Chapter III).

The collected information also determines the quality of the proposed scope of work to address the pressing economic distress of the region in which the proposed project will be located, the merits of the activities for which the investment assistance is requested, and the ability of the eligible applicant to carry out the proposed activities successfully.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; State, local, or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Sharon Mar, (202) 395–6466.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Sharon Mar, OMB Desk Officer, FAX number (202) 395–5806 or via the Internet at *Sharon_Mar@omb.eop.gov*.

Dated: March 2, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–4751 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Fisheries Observer Program Fishermen's Comment Card.

OMB Control Number: 0648–0536.

Form Number(s): None.

Type of Request: Regular submission.

Burden Hours: 312.

Number of Respondents: 624.

Average Hours per Response: 15 minutes.

Needs and Uses: The Northeast Fisheries Observer Program (NEFOP) is managed by the Fisheries Sampling Branch (FSB) at the Northeast Fisheries Science Center, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC). NEFOP observers will observe aboard commercial fishing vessels involved in state or Federal fisheries, as required by Fisheries Management Plans (50 CFR 648.11) and court mandates and through legislation such as the *Magnuson Stevens Act*, Sections 303 and 403, and the *Marine Mammal Protection Act*, Section 1387. The Fishermen's Comment Card will help NEFOP assess observer performance, ensure higher data quality, help to detect fraud, and provide the fishermen with a direct line of communication to the program management. This is a tailored qualitative customer survey for fishermen having had observers on their vessels to provide direct feedback on observer performance to the NMFS. This will be collected on a voluntary basis. The card is available to all fishermen who have had a certified NEFOP observer onboard their vessel. The captain, owner, or crew member in charge may complete the survey. Postage is prepaid and self-addressed.

Affected Public: Business or other for-profit organizations.

Frequency: Semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: March 2, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–4752 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 090130099–9106–01]

American Community Survey 5-Year Data Products

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: The U.S. Census Bureau has released American Community Survey (ACS) data products in the form of 1-year estimates for 2005, 2006, and 2007, and 3-year estimates for the period of 2005–2007. Annual updates of these products are planned. Specifically, in 2009 and 2010, the Census Bureau will publish 1-year estimates for the 2008 ACS and the 2009 ACS, and 3-year estimates for the 2006–2008 ACS and 2007–2009 ACS, respectively. Beginning in late 2010, the Census Bureau plans to introduce 5-year data products covering the period of 2005–2009. The Census Bureau is proposing to modify its current line of data products to accommodate the 5-year estimates and is requesting comments from current and potential users of ACS data products to help guide this modification. The release of the 5-year estimates will achieve a goal of the ACS to provide small area data similar to the data published after Census 2000, based on the long-form sample. Plans for the production of an ACS Summary File for race, ethnic origin, ancestry, and country of birth, and another for American Indians and Alaska Natives, will be described in a future **Federal Register** notice.

DATES: Written comments must be submitted on or before April 20, 2009.

ADDRESSES: Direct all written comments to Susan Schechter, Chief, American Community Survey Office, Room 3K276, Mail Stop 7500, Washington, DC 20233–7500.

FOR FURTHER INFORMATION CONTACT: Susan Schechter, Chief, American Community Survey Office, on (301) 763–8950, by e-mail at *Susan.Schechter.Bortner@census.gov*, or by mail at Room 3K276, Mail Stop 7500, Washington, DC 20233–7500.

SUPPLEMENTARY INFORMATION: The ACS is part of the 2010 Decennial Census Program and provides annually updated, detailed demographic, socioeconomic, and housing information for communities across the United States and Puerto Rico. One goal of the ACS is to provide small area data similar to the data published after Census 2000, based on the long-form sample. This goal will be met with the release of ACS 5-year estimates.

The Census Bureau is proposing to release 5-year estimates using the same set of ACS data products that were produced for the 2005–2007 ACS 3-year data products: detailed tables, summary files, data profiles, narrative profiles, selected population profiles, subject tables, geographic comparison tables, thematic maps, and Public Use Microdata Sample (PUMS) files. Descriptions of each of these data products follow:

Detailed tables and summary files include the most detailed ACS data and crosstabulations of ACS variables.

Data profiles provide separate fact sheets on social, economic, housing, and demographic characteristics.

Narrative profiles provide clear, concise textual descriptions of the data included in the data profiles.

Subject tables include detailed ACS data, organized by subject such as employment, education, and income.

Selected population profiles provide social, economic, and housing characteristics for a large number of groups based on race, ethnicity, country of birth, and ancestry.

Geographic comparison tables allow the comparison of ACS data for a given time period across a variety of geographic areas.

Thematic maps provide graphic displays of the data available from the geographic comparison tables, which compare ACS data for different areas in a given time period.

Public Use Microdata Sample (PUMS) Files provide access to ACS microdata for data users to create summaries that are not available as ACS summary products.

To see the Census Bureau's specific proposal for 5-year data products, please visit *http://www.census.gov/acs/www/Downloads/proposal_acs5yearproducts.pdf*. This proposal will be effective with the first release of 5-year estimates currently planned in 2010 (2005–2009 ACS) and will continue to be implemented annually. Table 1 of the proposal provides a summary of ACS 5-year data products relative to the current ACS 1-year data products. There are two 1-year data products that are not proposed for the 3-year or 5-year products—ranking tables and comparison profiles:

Ranking tables provide state rankings of estimates across a broad set of social, economic, and housing variables.

Comparison profiles compare ACS estimates for the current year to those from previous years for a specific geographic area.

In general, the 3-year table shells, the layout of a data table without the actual data, are the table shells proposed for the 5-year tables. To view the existing 3-year data products and table shells, please go to the American FactFinder (AFF) Web site. (Users can access the AFF from the Census Bureau's home page at *http://www.census.gov/* or from the AFF link on the ACS data release page at *http://www.census.gov/acs/www/Products/index.html* to view and download each data product.) Table 2 of the proposal, *http://www.census.gov/acs/www/Downloads/proposal_acs5yearproducts.pdf*, shows all the geographic summary levels for which we plan to release 5-year data products as well as those summary levels for which we do not plan to release any 5-year products. As was the case for Census 2000, some specific data products will not be produced for certain geographic summary levels. Table 2 summarizes, for selected data products, the specific geographic summary levels proposed for 5-year ACS tabulations. Table 3 of the proposal, *http://www.census.gov/acs/www/Downloads/proposal_acs5yearproducts.pdf*, summarizes the geographic summary levels proposed for the 5-year thematic maps and identifies the nested geographies that would be available for each of these geographic summary levels. For example, Table 3 shows that thematic maps based on ACS 5-year estimates would allow users to compare census tracts within counties. Table 4 of the proposal summarizes the same type of information for geographic comparison tables. For both thematic maps and geographic comparison tables, the same topics would be covered as are currently available in the corresponding 1-year and 3-year products.

The Census Bureau is also proposing to release new data products that were not produced for Census 2000. These products are based on geography identified in the ''Place of Work'' and ''Residence 1 Year Ago'' questions. Table 5 of the proposal identifies the proposed geographic summary levels for the 5-year ACS data products based on ''Place of Work'' and ''Residence 1 Year Ago.''

As is true for all Census Bureau data products, defined standards must be met to ensure the publication of high-quality ACS estimates. These standards are based on estimates of survey coverage, survey (unit) nonresponse, and item nonresponse. While 1-year and 3-year ACS data products must also meet specified statistical reliability standards in order to be published, those standards will not be applied to the 5-year data products. However, certain limitations on the release of 5-year ACS data will be imposed to meet disclosure avoidance requirements. Restrictions on the release required for disclosure avoidance are detailed in the proposal *http://www.census.gov/acs/www/Downloads/proposal_acs5yearproducts.pdf*.

The Census Bureau seeks input and feedback on ACS data products and requests comments via this **Federal Register** notice on the suite of data

products for the ACS 5-year estimates. We are especially interested in data users' specific feedback on the following four dimensions of these plans:

Block Group Level Geography—As detailed in the proposal at *http://www.census.gov/acs/www/Downloads/proposal_acs5yearproducts.pdf*, some geographic summary levels, such as block groups, will receive only a subset of the full set of data products. However, the Census Bureau acknowledges the value of block group data for users, especially those in rural areas, to create their own geographies. The Census Bureau also recognizes that the small sample sizes associated with block groups means that many of the estimates at the block group level will not be reliable. To address these concerns, the Census Bureau is considering alternative dissemination options for block group data. Please comment on the option of releasing block group data but not releasing data products for this summary level with the other data products.

Types of Data Products—We propose to release 5-year estimates in detailed tables, summary files, subject tables, data profiles, narrative profiles, selected population profiles, thematic maps, and geographic comparison tables. A 5-year PUMS files is also proposed. Narrative profiles and selected population profiles are not proposed for specific geographic summary levels, such as block groups.

Restrictions Required for Disclosure Avoidance or Statistical Reliability—We propose that restrictions on the release of 5-year estimates be based solely on disclosure avoidance requirements. These are summarized in the proposal at *http://www.census.gov/acs/www/Downloads/proposal_acs5yearproducts.pdf*. As is true for all Census Bureau data products, standards defined to ensure the publication of high-quality estimates must be met. These standards are based on estimates of survey coverage, survey (unit) nonresponse, and item nonresponse. The ACS 1-year and 3-year estimates were subjected to restrictions based on the reliability of the estimates. The Census Bureau does not propose that these restrictions be applied to the 5-year estimates. Please comment if you believe that the standards used to determine which 1- and 3-year estimates are published should also be applied to the 5-year estimates. In addition, if such limitations are implemented, tell us if you suggest that the full set of estimates be made available to users through some other means.

Periodicity of Data Release—We propose that, as is the case for 1-year estimates and 3-year estimates, ACS 5-year estimates be released annually.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 United States Code, Chapter 35, the OMB approved the ACS under OMB Control Number 0607–0810. We will furnish report forms to organizations included in the survey, and additional copies will be available upon written request to the Director, U.S. Census Bureau, Washington, DC 20233–0001.

Dated: February 26, 2009.

Thomas L. Mesenbourg,

Acting Director, U.S. Census Bureau.

[FR Doc. E9–4803 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–846

Brake Rotors From the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 2, 2009

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton Stefanova, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone; (202) 482–1766 or (202) 482–1280, respectively.

Background

On June 4, 2008, the Department of Commerce (the Department) published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on brake rotors from the People's Republic of China (PRC) covering the period April 1, 2007, through March 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 31813 (June 4, 2008).

On December 18, 2008, we extended the preliminary results deadline from December 31, 2008, to March 2, 2009. *See Brake Rotors From the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 77004 (December 18, 2008).

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. If it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend this deadline to a maximum of 365 days after the last day of the anniversary month.

Extension of Time Limit for Preliminary Results

We determine that it is not practicable to complete the preliminary results of this review within the original time limit because the Department requires additional time to examine separate rate issues in this administrative review.

Therefore, the Department is extending the time limit for completion of the preliminary results from 306 days to 320 days, in accordance with section 751(a)(3)(A) of the Act. The preliminary results are now due no later than March 16, 2009. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: March 2, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–4804 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review

of the antidumping duty order on stainless steel bar from India. The period of review is February 1, 2007, through January 31, 2008. This review covers imports of stainless steel bar from one producer/exporter: Venus Wire Industries Pvt. Ltd. We preliminarily find that sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection to assess antidumping duties on appropriate entries. Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* March 6, 2009.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Scott Holland, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–0182 or (202) 482–1279, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, the Department of Commerce (''Department'') published in the **Federal Register** the antidumping duty order on stainless steel bar (''SSB'') from India. *See Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995). On February 4, 2008, the Department published a notice in the **Federal Register** providing an opportunity for interested parties to request an administrative review of the antidumping duty order on SSB from India for the period of review (''POR'') February 1, 2007, through January 31, 2008. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 6477 (February 4, 2008).

On February 11, 2008, the Department received a timely request for review from Ambica Steels Limited (''Ambica''). On February 29, 2008, we received a timely request from domestic interested parties Carpenter Technology Corp.; Crucible Specialty Metals, a division of Crucible Materials Corp.; Electralloy Co., a G.O. Carlson, Inc. company; and Valbruna Slater Stainless, Inc. (collectively, ''Petitioners''), for a review of Venus Wire Industries Pvt. Ltd. (''Venus''). On March 31, 2008, in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act''), we initiated an administrative review on Ambica and Venus. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 16837 (March 31, 2008) (''*Initiation Notice*'').

On March 31, 2008, the Department issued antidumping duty questionnaires to Ambica and Venus. Venus submitted its responses to the antidumping questionnaire in May and July 2008. After analyzing these responses, we issued supplemental questionnaires to Venus to clarify or correct information contained in the initial questionnaire responses. We received timely responses to these questionnaires. Petitioners submitted comments on the questionnaire responses in June, July, November, and December 2008, January and February 2009.

On May 16, 2008, Ambica withdrew its request for an administrative review. On June 24, 2008, the Department partially rescinded this administrative review with respect to Ambica. *See Stainless Steel Bar from India: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 35657 (June 24, 2008).

On October 24, 2008, we extended the time limit for completing the preliminary results of this review to no later than March 2, 2009, in accordance with section 751(a)(3)(A) of the Act. *See Stainless Steel Bar from India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 63435 (October 24, 2008).

On January 8, 2009, the Department met with counsel for Petitioners to discuss certain sales and cost of production (''COP'') issues.

On January 21, 2009, Petitioners alleged that Venus withheld information regarding certain U.S. sales, the role played by Venus' staff on U.S. sales, and Venus' costs. According to Petitioners, these flaws should lead the Department to reject Venus' data and, because of Venus' lack of cooperation, Petitioners ask the Department to apply total adverse facts available in accordance with section 776(b) of the Act. *See* Petitioners' January 21, 2009, submission at 10–15.

Specifically, Venus reported that AMS Specialty Steel (''AMS'') is an unaffiliated U.S. customer and that Venus did not pay commissions to AMS, nor was AMS a sales agent for Venus' sales of subject merchandise during the POR. Petitioners claim that these statements by Venus are false and that Venus does have a relationship with AMS, including that of commissioned agent. In addition, Petitioners contend that Venus incorrectly reported sales to AMS, as the U.S. customer, when it should have reported the first U.S. sale to an unaffiliated U.S. customer. Because of this error, according to Petitioners, Venus has reported wrong sales data to the Department for Venus' sales through AMS. *See* Petitioners' January 21, 2009, submission at 2–4.

Petitioners additionally contend that all of Venus' U.S. sales should be classified as constructed export price (''CEP'') sales and not export price (''EP'') sales because Venus' U.S. employee served as more than a communications link between Venus and its U.S. customers. *See* Petitioners' January 21, 2009, submission at 5.

Finally, Petitioners contend that Venus misrepresented its production process by withholding certain critical information concerning its COP. *See* Petitioners' January 21, 2009, submission at 7.

Petitioners presented support for their allegations which cannot be further described here because of its proprietary nature. *See* Petitioners' January 21, 2009, submission at Attachment 1 and Enclosure 3.

Information in Venus' responses contradicts these claims. Specifically, Venus has stated that AMS was its U.S. customer and that it sold to AMS, not through AMS; that AMS is not affiliated with Venus; that Venus negotiated the material terms of sale with AMS and not with AMS' U.S. customers; that, in most cases, Venus knew the name of AMS' customers only because AMS had to provide the names for technical compliance, such as material specification, marking, and labeling, but that Venus did not negotiate the selling price from AMS to its U.S. customer; that AMS was not an agent for Venus and that Venus did not pay commissions to AMS for subject merchandise during the POR; and that Venus did not have an agreement with AMS for AMS to be Venus' agent, representative, or broker for subject merchandise during the POR. *See* Venus' December 31, 2008, supplemental questionnaire response (''December 31, 2008, supplemental'') at 18, which was refiled on January 14, 2009, with corrected bracketing and Venus' February 4, 2009, supplemental questionnaire response at 1.

Regarding whether all U.S. sales should have been reported on a CEP basis, Venus reported that the employee was paid a fixed remuneration per month and certain actual expenses, such as telephone and travel, and that the employee visited Venus' customers, received inquiries and orders for

stainless steel bright bar and stainless steel wire rod and sent this material to Venus in India for negotiation and execution. *See* Venus' October 24, 2008, supplemental questionnaire response (''October 24, 2008, supplemental'') at 20 and 22. Venus affirmed that all material terms of sale are concluded by Venus, that Venus issues sales invoices and collects payment, and that the employee did not have the authority to decide the material terms of sale, such as price, payment terms, and quantities. *See id.* at 21, and Venus' December 31, 2008, supplemental at 15.

Regarding cost, Venus has described its production process and denies Petitioners' claims. *See* Venus' January 12, 2009, supplemental questionnaire response at 10.

We have carefully reviewed Petitioners' claims, Venus' responses, as well as all other evidence on the record. Based on the current record, we preliminarily find that Venus properly reported its U.S. sales and cost information to the Department. Thus, we preliminarily determine that the application of facts available is not warranted. Because of the proprietary nature of the information submitted by Petitioners in their allegation, a full discussion of these issues are presented in the preliminary results calculation memorandum. *See* Memorandum from the Team to the File ''Preliminary Results Calculation Memorandum for Venus Wire Industries Pvt. Ltd.,'' dated March 2, 2009 (''Venus Preliminary Results Calculation Memorandum'').

Scope of the Order

Imports covered by the order are shipments of SSB. SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-to-length flat-rolled products (*i.e.*, cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes, and sections.

The SSB subject to this review is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of the order. *See* Memorandum from Team to Barbara E. Tillman, ''Antidumping Duty Orders on Stainless Steel Bar from India and Stainless Steel Wire Rod from India: Final Scope Ruling,'' dated May 23, 2005, which is on file in the Central Records Unit in room 1117 of the main Department building (''CRU''). *See also Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

Period of Review

The POR is February 1, 2007, through January 31, 2008.

Applicable Statute

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, all references to the Department's regulations are to 19 CFR part 351 (2008).

Affiliation

Precision Metals

In the 2005–2006 antidumping duty administrative review of SSB from India, the Department determined that Venus and Precision Metals were affiliated within the meaning of section 771(33) of the Act, and also that the two companies should be treated as a single entity for the purposes of that administrative review. *See Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 51595, 51596 (September 10, 2007).

During the current 2007–2008 administrative review, the Department again examined Venus' relationship with Precision Metals. Based on Venus' representations that its corporate affiliation relationship with Precision Metals remained the same during the POR as during the 2005–2006 administrative review, the Department hereby continues to treat Venus and Precision Metals as a single entity in the current proceeding. *See* Memorandum from Brandon Farlander to the File, ''Relationship of Venus Wire Industries Pvt. Ltd. and Precision Metals,'' dated January 9, 2009, which is on file in the CRU.

Sieves Manufacturing Pvt. Ltd.

On November 14, 2008, Petitioners alleged that, because Venus reported that its affiliate, Sieves Manufacturing Pvt. Ltd. (''Sieves''), is a manufacturer of SSB and made sales of the subject merchandise in the home market, Venus and Sieves should be treated as a single entity under 19 CFR 351.401(f). As discussed in the Memorandum from Scott Holland to Susan Kuhbach, Office Director, ''Whether to Treat Venus Wire Industries Pvt. Ltd. and Sieves Manufacturing Pvt. Ltd. as a Single Entity,'' dated March 2, 2009, which is on file in the CRU, the Department finds that Venus and Sieves have met the criteria set forth under 19 CFR 351.401(f). Therefore, we preliminarily determine that Venus and Sieves should be treated as a single entity in this review. We intend to seek further information regarding the relationship of these companies and the types of merchandise sold by Sieves to use in the final results.

Fair Value Comparisons

To determine whether sales of SSB by Venus to the United States were made at less than normal value (''NV''), we compared export price (''EP'') to NV. *See* ''Export Price'' and ''Normal Value'' sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign-like product, where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section, below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold by the respondent in the comparison market covered by the description in the ''Scope of the Order'' section, above, to be foreign-like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was

a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign-like product to the volumes of its U.S. sales of the subject merchandise. See the ''Normal Value'' section, below, for further details.

We compared U.S. sales to monthly weighted-average prices of contemporaneous sales made in the home market based on the following criteria: (1) General type of finish; (2) grade; (3) remelting; (4) type of final finishing operation; (5) shape; and (6) size. This was consistent with our practice in the original investigation. *See Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Stainless Steel Bar From India*, 59 FR 39733, 39735 (August 4, 1994); unchanged in the final, *see Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915 (December 28, 1994). Where there were no home market sales of the foreign-like product that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority, made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to constructed value (''CV'').

Date of Sale

Pursuant to 19 CFR 351.401(i), the date of sale is normally the date of invoice unless satisfactory evidence is presented that the material terms of sale, price and quantity, are established on some other date. Venus reported that the material terms of sale can change up until the date of the invoice for both the home market and the U.S. market. *See* May 16, 2008, Section A Questionnaire Response (''AQR'') at A–14. Further, Venus provided sales documents that demonstrated that Venus experienced material changes in quantity sold that were outside of Venus' delivery tolerances for sales to the United States. For the home market, Venus provided sales documents that demonstrated that Venus experienced price changes and material changes in quantity sold that were outside of Venus' delivery tolerances. *See* AQR at Annexure A–4. Therefore, based on record evidence, we have used the date of invoice as the date of sale for Venus' sales to the United States and in the home market.

Export Price

For the price to the United States, we calculated EP in accordance with section 772 of the the Act. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act.

We calculated EP for Venus because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because CEP methodology was not otherwise warranted. For Venus, we based EP on the packed, delivered duty paid, or cost insurance freight price to unaffiliated purchasers in the United States. We adjusted the reported gross unit price, where applicable, for early payment discounts and other discounts for weight shortages, short payments or quality claims. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, freight incurred in transporting merchandise to the Indian port, domestic brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, freight incurred in the United States, U.S. customs duties, and other transportation fees. *See* Venus Preliminary Results Calculation Memorandum.

Duty Drawback

Section 772(c)(1)(B) of the Act provides that EP or CEP shall be increased by among other things, ''the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.'' The Department determines that an adjustment to U.S. price for claimed duty drawback is appropriate when a company can demonstrate that: (1) the ''import duty and rebate are directly linked to, and dependent upon, one another;'' and (2) ''the company claiming the adjustment can show that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product.'' *Rajinder Pipes, Ltd.* v. *United States*, 70 F. Supp. 2d 1350, 1358 (Ct. Int'l Trade 1999).

Venus claimed a duty drawback adjustment based on its participation in the Indian government's Duty Entitlement Passbook Program. The Department finds that Venus has not provided substantial evidence on the record to establish the necessary link between the import duty and the reported duty drawback. Therefore, because Venus has failed to meet the Department's requirements, we are denying Venus' request for a duty drawback adjustment for the preliminary results. *See* Venus Preliminary Results Calculation Memorandum.

Normal Value

A. Home Market Viability

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign-like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP. Section 773(a)(1)(B)(ii)(II) of the Act contemplates that quantities (or values) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Venus' volume of home market sales of the foreign-like product to its volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Venus reported that its home market sales of SSB during the POR were more than five percent of its sales of SSB to the United States. *See* July 7, 2008, section B questionnaire response (''BQR'') at B–4. Therefore, Venus'' home market was viable for purposes of calculating NV. Accordingly, Venus reported its home market sales. To derive NV for Venus, we made the adjustments detailed in the ''Calculation of Normal Value Based on Home Market Prices'' section below.

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales*

at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the ''chain of distribution''),[4] including selling functions,[5] class of customer (''customer category''), and the level of selling expenses for each type of sale. Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either comparison market or third country prices),[6] we consider the starting prices before any adjustments. When the Department is unable to match U.S. sales to sales of the foreign-like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

We obtained information from Venus regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution. Our LOT findings are summarized below.

Venus reported one channel of distribution and a single LOT in both the home market and the U.S. market. Further, Venus claimed that its sales in both markets were at the same LOT and Venus did not request a LOT adjustment. *See* BQR at B–29, and section C questionnaire response at C–30.

Venus reported that it sells to end users, distributors, and trading companies at the same LOT in the home market. Also, Venus reported that it sells to distributors and trading companies at the same LOT in the U.S. market. Venus reported that its prices did not vary based on channel of distribution and/or customer category. *See* AQR at A–13.

We examined the information reported by Venus regarding its sales processes for its home market and U.S. market sales, including customer categories and the type and level of selling activities performed. *See* AQR at A–13. Specifically, we considered the extent to which, for instance, sales process/marketing support, freight/delivery, inventory maintenance, and quality assurance/warranty service varied with respect to the different customer categories and channels of distribution across the markets. We concluded that the home market channel of distribution comprises one LOT. *See id.* We evaluated the U.S. channel of distribution and concluded that it also comprises one LOT. Next, we compared the U.S. LOT to the home market LOT. *See id.* Venus reported that it sold to similar categories of customer in both the home market and the U.S. market. *See id.* Venus reported similar levels of freight/delivery in both the home market and U.S. market. *See id.* Further, Venus reported no inventory maintenance in either the home market or the U.S. market, and reported that it provided no warranty services in any of its channels of distribution. *See id.* The only minor difference that Venus reported was in sales process/marketing support, where Venus indicated that it advertises and promotes its U.S. market sales, but not the home market sales. *See id.*

Based on the foregoing, we preliminarily find that Venus' sales in the home market and the United States were made at the same LOT.

C. Cost of Production Analysis

In the most recently completed segment of the proceeding at the time of initiation, the Department found that Venus made sales in the comparison market at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. Therefore, the Department determined that there were reasonable grounds to believe or suspect that SSB sales were made in the comparison market at prices below the COP in this administrative review for Venus. *See* section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a COP inquiry for Venus.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the cost of materials and fabrication for the foreign-like product, plus amounts for G&A expenses, financial expenses, and comparison market packing costs, where appropriate. We relied on the COP data submitted by Venus except where noted below.

2. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales of that model were made in substantial quantities within an extended period of time in accordance with section 773(b)(2)(B) and (C) of the Act. Because we compared prices to the POR-average COP, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, for Venus, we disregarded these below-cost sales of a given product and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Calculation of Normal Value Based on Home Market Prices

We calculated NV based on ex-factory or delivered prices to unaffiliated customers in the home market. We made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses consistent with section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of

[4] The marketing process in the United States and comparison market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and each respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

[5] Selling functions associated with a particular chain of distribution help us to evaluate the LOT(s) in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[6] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative expenses (''G&A'') and profit for CV, where possible.

indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. We did not make further adjustments to Venus' home market data.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as reported by the Federal Reserve Bank.

Preliminary Results of the Review

For the firms listed below, we find that the following weighted-average percentage margin exists for the period February 1, 2007, through January 31, 2008:

Exporter/manufacturer	Margin (percent)
Venus Wire Industries Pvt. Ltd./ Precision Metals	0.51

Public Comment

The Department will disclose the calculations performed within five days of publication of this notice in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 42 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, and (2) a brief summary of the argument with an electronic version included. The Department will publish the final results of this administrative review, including the results of our analysis of issues raised in the briefs, no later than 120 days after publication of these preliminary results.

Assessment Rates

If these preliminary results are adopted in the final results, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of review in the **Federal Register**.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by the respondent for which it has reported the importer of record and the entered value of the U.S. sales, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Where the respondent did not report the entered value for U.S. sales, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales.

To determine whether the duty assessment rates were *de minimis* (*i.e.*, less than 0.50 percent) in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates based on the estimated entered value. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis*.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see id*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of SSB from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*); (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less than fair value (''LTFV'') investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; and (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, or the original LTFV investigation, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 12.45 percent, the all-others rate established in the LTFV investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915 (December 28, 1994).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 2, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–4798 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XN79

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene its Socioeconomic Panel (SEP).

DATES: The meeting will be convene at 8:30 a.m. on Thursday, March 26, 2009 and conclude no later than 1:30 p.m. on Friday, March 27, 2009.

ADDRESSES: The meeting will be held at the Quorum Hotel, 700 N. Westshore Blvd., Tampa, FL 33609; telephone: (813) 289–8200.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council will convene its SEP to discuss fisheries economics statistics of the Gulf of Mexico and United States and fishery resource allocation issues, including allocation methods and data availability.

A copy of the agenda and related materials can be obtained by calling the Council office at (813) 348–1630.

Although other non-emergency issues not on the agendas may come before the SEP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the SEP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: March 3, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–4753 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 090219207–9212–01]

RIN 0648–ZC05

NOAA Coastal and Marine Habitat Restoration Project Grants

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

ACTION: Notice of funding availability under the American Recovery and Reinvestment Act.

SUMMARY: NOAA delivers funding and technical expertise to restore coastal and marine habitats. These habitats support valuable fisheries and protected resources, improve the quality of our water, provide recreational opportunities for the public's use and enjoyment, and buffer our coastal communities from the impacts of storms and sea level rise. Projects funded through NOAA have strong on–the–ground habitat restoration components that provide social and economic benefits for people and their communities in addition to long–term ecological habitat improvements. Through this solicitation, NOAA seeks to openly compete funding available for habitat restoration under the American Recovery and Reinvestment Act of 2009. Applications should be submitted for any project that is to be considered for this funding, even for those projects put forth to the Federal Government as examples by internal and external restoration partners or submitted as applications to other NOAA competitions. Competition will ensure that the most beneficial restoration projects are selected to realize significant ecological gains (with emphasis on projects that are regionally or nationally significant species and ecosystems), fuel America's near–term economy, and ensure that projects are truly ''shovel–ready.'' Proposals selected for funding through this solicitation will be implemented through a grant or cooperative agreement, with awards dependent upon the amount of funds made available to NOAA for this purpose by Congress. NOAA anticipates that up to $170 million may be available for coastal and marine habitat restoration; typical awards are expected to range between $1.5 million to $10 million. Funds will be administered by NOAA's Office of Habitat Conservation.

DATES: Applications must be postmarked, provided to a delivery service, or received by *www.grants.gov* by 11:59 PM EDT on April 6, 2009. Use of U.S. mail or another delivery service must be documented with a receipt. No facsimile or electronic mail applications will be accepted.

ADDRESSES: Electronic applications are strongly encouraged and are available at *http://www.grants.gov*. Grants.gov requires applicants to register with the system prior to submitting an application for the first time. This registration process can take over a week and involves multiple steps. In order to allow sufficient time for this process, prospective applicants should register as soon as they decide to apply, even if not yet ready to submit an application. If an applicant is having difficulty downloading the application forms from Grants.gov, contact Grants.gov customer support at 1–800–518–4726 or *support@grants.gov*. If an applicant is having difficulty with Grants.gov, the applicant should contact Craig Woolcott at *Craig.Woolcott@noaa.gov*, or by phone at 301–713–0174, or by mail at NOAA Fisheries, Office of Habitat Conservation (F/HC3), 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Craig Woolcott or Melanie Gange at (301) 713–0174, or by e–mail at *Craig.Woolcott@noaa.gov* or *Melanie.Gange@noaa.gov*. Prospective applicants are invited to contact NOAA staff before submitting an application to discuss whether their project ideas are within the scope of the American Recovery and Reinvestment Act's objectives and NOAA's mission and goals.

SUPPLEMENTARY INFORMATION: The principal objective of these NOAA Coastal and Marine Habitat Restoration Project Grants is to provide Federal financial and technical assistance to ''ready-to-go'' (shovel–ready) projects that meet NOAA's mission to restore marine and coastal habitats and that will result in near–immediate stimulation of local United States (U.S.) economies through the creation or retention of restoration–related jobs for work in U.S. jurisdictions.

NOAA seeks to support projects that will result in on–the–ground restoration of marine and coastal habitat (including Great Lakes habitat) that are aligned with the objectives of the American Recovery and Reinvestment Act. Restoration for the purposes of this solicitation will be broadly inclusive. Restoration includes, but is not limited to, activities that contribute to the return

of degraded or altered marine, estuarine, coastal, and freshwater (diadromous fish) habitats to a close approximation of their function prior to disturbance. Habitat restoration activities that produce ecologically significant habitat features to create buffers or ''green infrastructure'' that serve to protect coastal communities from sea level rise, coastal storms and flooding, or that provide adaptation to climate change will also be considered. The program priorities for this opportunity primarily support NOAA's ''Ecosystems'' mission support goal of ''Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem–Based Management.''

NOAA will emphasize the selection of mid–scale, shovel–ready restoration projects that will (1) yield significant ecological benefits with emphasis on regionally or nationally significant species and ecosystems, and (2) stimulate local economies through the creation or retention of restoration–related jobs for work in U.S. jurisdictions. Mid–scale projects are anticipated to be those with a total project cost (NOAA award plus any match or leverage) over $1.5 million. Shovel–ready projects are expected to be those where feasibility studies and/or other baseline information required for a design are available, where required consultations and permits, if not in–hand, are either in progress or there is reasonable assurance provided that they can be attained quickly, and where NEPA analysis and any environmental permits and authorizations are finished or can be expeditiously completed, so that projects can be implemented shortly after funding is made available (see NEPA details below, and in Section VI.B.2 of the FFO).

High priority will be given to applications for projects that:

- Have the greatest potential to achieve ecological benefits and maximize jobs creation/preservation;
- Can begin within the first 90 days of the award start date;
- Can be completed within 12–18 months;
- Have the greatest potential to be sustainable and provide lasting benefits of regional or national significance;
- Identify specific goals and outcomes, with appropriate ecological and economic performance metrics;
- Propose sufficient, cost–effective monitoring appropriate to the scope and scale of the project to evaluate a project's benefits;
- Are consistent with NOAA species recovery planning efforts if located in areas where recovery planning efforts for Endangered Species Act listed species are underway;
- Request funds primarily to implement physical, on–the–ground coastal habitat restoration (as opposed to funds for general program support, overhead and travel).

Because the purpose of these funds is to quickly stimulate local U.S. economies through habitat restoration, applications for projects lacking opportunity to generate employment through restoration implementation or provide long–term economic benefits will not compete well and are discouraged.

The following are exemplary of the types of coastal and marine habitats and projects that will receive priority for restoration funding consideration:

- Diadromous fish habitat, particularly projects that remove in–stream migration barriers or create/restore habitats limiting productivity;
- Shellfish habitat restoration/creation, for the broad ecological benefits and ecosystem services they provide;
- Coral reefs, through projects that address land–based sources of pollution, recovery from disturbance or disease, or that promote coral recruitment and/or recovery;
- Coastal wetlands, through shoreline restoration or hydrological reconnection;
- Projects that seek to restore coastal and marine habitat to recover threatened or endangered species or for species of concern;
- Projects that provide protection for communities and infrastructure through habitat restoration to improve coastal resiliency to storms and coastal flooding;
- Projects that improve the potential for coastal habitat to respond to climate change through restoration or protection of transition zones that provide room for habitat migration with sea level rise;
- Projects that seek to address the problem of marine debris accumulation in coastal and marine habitats;
- Projects that support conservation corps type activities to provide employment, education and training through restoration of coastal and marine habitat; and
- Restoration of Great Lakes habitats within Areas of Concern addressing beneficial use impairments to loss of fish and wildlife habitat and/or degradation of benthos.

Safety is a critical consideration for restoration project implementation. If an application is selected, the grantee must have a written safety plan for all project–related activities, including management of volunteers (if applicable). The safety plan should consider safety at the site during and after project construction, and take into account potential safety concerns with regard to the current and future use of the site.

Electronic Access

The full text of the Federal Funding Opportunity (FFO) announcement for this program can be accessed via the Grants.gov web site at *http://www.grants.gov* (FFO number: NOAA–NMFS–HCPO–2009–2001709). The FFO will also be available by contacting the program officials identified under **FOR FURTHER INFORMATION CONTACT**. Applicants must comply with all requirements contained in the FFO.

Statutory Authority

The Secretary of Commerce is authorized under the following statutes to provide grants and cooperative agreements for habitat restoration:

- Fish and Wildlife Coordination Act 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970;
- Magnuson–Stevens Fishery Conservation and Management Reauthorization Act of 2006, 16 U.S.C. 1891a;
- Marine Debris Research, Prevention, and Reduction Act, 33 U.S.C. 1951 *et seq.*;
- Coral Reef Conservation Act of 2000, 16 U.S.C. 6403;
- Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*;
- National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.*;
- Marine Mammal Protection Act, 16 U.S.C. 1382; and
- Endangered Species Act, 16 U.S.C. 1535.

Catalogue of Domestic Federal Assistance (CFDA) Number: 11.463, Habitat Conservation.

Funding Availability

NOAA anticipates that up to $170 million may be available for coastal and marine habitat restoration; typical awards are expected to range between $1.5 million and $10 million. NOAA will not accept applications requesting more than $20 million or less than $500,000 under this solicitation. There is no guarantee that sufficient funds will be available to make awards for all applications. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for habitat restoration projects by the applicants, the merit and ranking of the applications, the amount of funds made available by Congress,

and the amount of funding, if any, put toward American Recovery and Reinvestment Act projects outside this solicitation.

NOAA will consider funding more than one project under a single application and/or award. Applicants that bundle projects in a single application should ensure that there is sufficient detail for each project as per the guidelines and information requirements listed in this document if an application is to be competitive; all projects in the bundle should be able to be initiated quickly as well as completed within the award period specified below. Projects that are sufficiently different in nature so that they cannot be succinctly described within the narrative page limit requirements may be most competitive as individual applications and should be submitted as such.

The exact amount of funds that may be awarded will be determined in pre–award negotiations between the applicant and NOAA representatives. Publication of this document does not obligate NOAA to award any specific project or obligate all or any parts of any available funds. Pre–award costs are generally unallowable. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government. There is no obligation on the part of NOAA to cover pre–award costs unless approved by the Grants Officer as part of the terms when the award is made.

Eligibility

Eligible applicants are institutions of higher education, non–profits, commercial (for profit) organizations, U.S. Territories, and state, local and Indian tribal governments. Applications from Federal agencies or employees of Federal agencies will not be considered. Federal agencies are strongly encouraged to work with states, non–governmental organizations, municipal and county governments, conservation corps organizations and others that are eligible to apply.

The Department of Commerce/ National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic–serving institutions, tribal colleges and universities, and institutions that work in under–served areas. NOAA encourages applications involving any of the above institutions.

Cost Sharing Requirements

There is no statutory matching requirement for this funding.

Evaluation and Selection Procedures

The evaluation criteria, review process and selection factors that apply to eligible applications under this funding opportunity are below. Further information about the application requirements, evaluation and selection process can be found in the FFO.

Evaluation Criteria for Projects

Reviewers will assign scores to applications ranging from 0 to 50 points based on the following five standard NOAA evaluation criteria and respective weights specified below. Applications that best address these criteria will be most competitive.

1. *Importance and Applicability of Proposal (20 points):* This criterion ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, Federal, regional, state or local activities. For the NOAA Coastal and Marine Habitat Restoration Project Grants competition, applications will be evaluated based on the following:

• The potential of an application to meet the intent of the American Recovery and Reinvestment Act to readily maximize jobs created or maintained through implementation of shovel–ready coastal and marine habitat restoration projects, and to improve the short– and long–term economic condition of an area (e.g., increased fisheries benefits, increased tourism and recreation, etc.), based on the significance of the anticipated outcomes of the project. This includes the extent to which the project(s) will deliver tangible, specific results that are measurable with respect to the number, type, speed, and duration (in labor hours) of jobs created or maintained directly resulting from the project.(8 points)

• The potential of an application to meet NOAA's mission to protect and restore marine and coastal habitats, based on the significance of the anticipated ecological benefits. This includes the extent to which the project will deliver tangible, specific results that are measurable and relevant to NOAA performance measures such as acres restored, stream miles opened for fish passage, tonnage of marine debris removed, and similar outputs that directly result from the project. (8 points)

• The potential of the project to be sustainable and provide lasting benefits of regional or national significance for coastal and marine habitats. Reviewers will be looking for evidence that 1) there is demonstrated support for the project in the form of a letter from partners, local entities, and/or state and local governments, and a letter of commitment from the appropriate resource agency personnel for a project in permanently protected areas, or from the affected landowner for a project on private property, that provides assurance of support and dedication to protecting the project for its useful life (letter of support, conservation easement, or significant financial or other in–kind investment); 2) the applicant has chosen the most self–sustaining restoration technique that accomplishes the project's goals; and/or 3) the project will remove a habitat or species impact that will not re–occur. (4 points)

2. *Technical/Scientific Merit (12 points):* This criterion assesses whether the approach is technically sound and/ or innovative, if the methods are appropriate, and whether there are clear project goals and objectives. For the NOAA Coastal and Marine Habitat Restoration Project Grants competition, applications will be evaluated based on the following:

• The extent to which the applicant has described a realistic implementation plan, beginning within the first 90 days of the award start date, and whether the project is likely to be fully achievable within 12–18 months. Applications that provide assurance that implementation of the project will meet all Federal, state and local environmental laws, and that applicable permits and/or approvals are in hand or will be obtained expeditiously, so that on–the–ground activities will begin soon after the project's proposed start date are likely to score higher(see NEPA details in Section VI.B.2 of the FFO). Applications submitted with evidence of completed environmental assessments, completed consultations and/or secured permits, if applicable, will score higher. (5 points)

• The overall feasibility of the project from a socioeconomic perspective. This includes the likelihood that a project is able to meet stated employment targets and whether there is an effective mechanism to evaluate project success, including adequate and meaningful performance measures for economic benefits, for which results will be available within and following the award period. Those projects that identify specific quantifiable targets achievable during the award period are likely to score higher. (3 points)

• The overall technical feasibility of the project from a biological and engineering perspective, including whether the proposed approach is technically sound, safe, and uses appropriate methods and personnel. This includes the likelihood that a

project is able to achieve stated project goals and objectives on an ecological basis, and whether there is an effective mechanism to evaluate project performance (e.g., sufficient, cost–effective monitoring appropriate to the scope and scale of the project), for which results will be available within and following the award period. Those projects that identify specific quantifiable targets, achievable during the award period, are likely to score higher. For projects requiring maintenance to assure success/proper function, the adequacy of the long–term operation and/or maintenance plan will be considered. (4 points)

3. *Overall Qualifications of Applicants (6 points):* This criterion ascertains whether the applicant possesses the necessary education, experience, training, facilities, and administrative resources to accomplish the proposed work. For the NOAA Coastal and Marine Habitat Restoration Project Grants competition, applications will be evaluated based on the following:

• The capacity/knowledge of the applicant and associated project personnel to conduct the scope and scale of the proposed work, as indicated by the qualifications and past experience of the project leaders and/or partners in designing, implementing and effectively managing and overseeing projects that restore marine and coastal habitats. Proposals that require engineering decision making should highlight the qualifications and experience of the designer/engineer. Applicants are encouraged to reference examples of projects similar in scope and nature that have been successfully completed by the implementation team. (4 points)

• The facilities/equipment and/or administrative resources and capabilities available to the applicant, or that will be secured to support and successfully manage the restoration work and grant responsibilities. (2 points)

4. *Project Costs (10 points):* This criterion evaluates the budget to determine if it is realistic and commensurate with the project needs and time–frame. For the NOAA Coastal and Marine Habitat Restoration Project Grants competition, applications will be evaluated on the following:

• Whether the proposed budget is cost–effective and realistic, based on the applicant's stated objectives, time frame, and amount of overall project budget already secured from other sources. Applications will be evaluated based on the percentage of funds requested that will be dedicated to all phases of project implementation including physical, on–the–ground coastal habitat restoration, compared to the percentage for general program support, overhead and travel. The degree to which funding for salaries will support staff directly involved in accomplishing the restoration work, as evidenced by a detailed breakdown of personnel hours and costs by task, with appropriate NAICS code data that indicates the primary activity of businesses/partners involved in the restoration work, will be evaluated. Requests for equipment (any single piece of equipment costing $5,000 or more) will be evaluated on how strongly tied the equipment is to achieving on–the–ground habitat restoration and on the adequacy of lease versus buy comparisons in justifying the need for purchase. (5 points)

• Whether the proposed budget is sufficiently detailed, with appropriate budget breakdown and justification of Federal and any non–Federal shares by object class as listed on form SF–424A. If funding will be used to complete part of a larger project, a budget overview for the entire project should be provided to allow the selecting official to make an informed determination of a project's readiness. (3 points)

• Whether an applicant can leverage the Federal investment through matching contributions and/or partnerships. Applicants that propose to use independent sources of funds for in–depth evaluation and monitoring of long–term ecological and/or socioeconomic impacts of a project outside the award period will receive full points for this sub–criterion. NOAA encourages applicants to provide matching contributions and work with partners to improve cost–effectiveness; however, match is not required. (2 points)

5. *Outreach and Education (2 points):* NOAA assesses whether the project provides a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nation's natural resources. For the NOAA Coastal and Marine Habitat Restoration Project Grants competition, applications will be evaluated on the following:

• Public outreach as it relates to the proposed project, including plans to disseminate information on project goals, results, project partners, jobs created or maintained; sources of funding and other support provided, such as the involvement of project partners; and the potential for the proposed project to encourage future restoration and protection of marine and coastal habitats or complement other local restoration or conservation activities. (2 points)

Review and Selection Process

Applications will undergo an initial administrative review to determine if they are eligible and complete. Eligible applications will then undergo a technical review, ranking, and selection process to determine how well they meet the stated aims of the American Recovery and Reinvestment Act and the mission and goals of NOAA.

Eligible applications for habitat restoration projects will be evaluated by at least three individual technical reviewers according to the criteria and weights described in this solicitation. Each technical reviewer will independently evaluate each project and provide an individual score. No consensus advice will be provided by these reviewers. Applications will likely be subject to a subsequent panel review. A panel review is dependent on the constraints surrounding the Act and may be forgone. If a panel review is not convened, the application ranking, technical review comments and scores will be provided to the Selecting Official (SO). If a panel is convened, the FFO, technical ranking, top ranked applications, and technical review comments and scores will be provided to a panel whose members will not have participated as technical reviewers. The panel will be comprised of Federal employees, and may convene in person, or by teleconference, video conference or other electronic means, to discuss the applications and consider technical reviewer comments. Prior to the panel discussion, each member of the panel will independently assign a numerical rating between 1 and 4 for each application according to the following scale:

1 — Marginal; application partially meets some of the evaluation criteria (See Evaluation Criteria above and section V.A. of the FFO) but does not address program priorities outlined in the FFO.

2 — Fair; application adequately meets some of the evaluation criteria (See Evaluation Criteria above and section V.A. of the FFO) and sufficiently addresses a program priority outlined in the FFO.

3 — Good; application thoroughly meets much of the evaluation criteria (See Evaluation Criteria above and section V.A. of the FFO) and addresses program priorities outlined in the FFO.

4 — Excellent; application fully meets most of the evaluation criteria (See Evaluation Criteria above and section V.A. of the FFO) and exceptionally

addresses program priorities outlined in the FFO.

Panel member scores will be averaged and an interim ranking will result which will be presented to the panel for discussion, with the goal of reaching consensus on the applications to be recommended for funding. After discussing the applications, panelists will again assign a numerical rating between 1 and 4 (as described above) for each application, scores will be averaged, and a final project ranking developed. The final ranking from the panel will be presented to the SO and should be the primary consideration by the SO in deciding which applications will be recommended to the NOAA Grants Officer.

Selection Factors for Projects

The SO anticipates recommending applications for funding in rank order unless an application is justified to be selected out of rank order based upon one or more of the following selection factors:

(1) Availability of funding;

(2) Balance/distribution of funds: a) geographically, b) by type of institutions, c) by type of partners, d) by research areas, e) by project types;

(3) Whether this project duplicates other projects funded or considered for funding by NOAA or other Federal agencies;

(4) Program priorities and policy factors set out in section I.A and I.B of the FFO;

(5) An applicant's prior award performance;

(6) Partnerships and/or participation of targeted groups; and

(7) Adequacy of information necessary for NOAA staff to make a NEPA determination and draft necessary documentation before recommendations for funding are made to the NOAA Grants Officer.

Successful applicants may be asked to modify work plans or budgets, and provide supplemental information required by the agency prior to final approval of an award.

Successful applicants should expect that information about their projects and anticipated and realized economic impacts will be posted on Recovery.gov, a White House–managed website established for the purpose of transparency and oversight. Federal agencies expect to be obligated to publish their plans for expenditure of American Recovery and Reinvestment Act funds on this website, including announcements for grant competitions, details on awards made with these funds, and performance and accountability information on funded projects. Recipients of American Recovery and Reinvestment Act funds will be required to comply with Section 1606 of the American Recovery and Reinvestment Act regarding wage rate requirements, and Section 1605 regarding the use of American iron, steel, and manufactured goods for applicable project types (see Application and Submission Information in Section IV.B.2 of the FFO). Recipients will also need to assist NOAA in meeting mandatory reporting requirements under Title XV., Section 1512 (Reports on Use of Funds), of the American Recovery and Reinvestment Act (see Reporting Requirements details in Section VI.C of the FFO). Initial guidance to Federal agencies for implementing American Recovery and Reinvestment Act programs, including reporting requirements for agencies, is provided in OMB Memorandum M–09–10 (February 18, 2009). Additional guidance may be forthcoming related to responsibilities of recipients of grants and cooperative agreements.

Intergovernmental Review

Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOCs is listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html*.

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not obligate NOAA to award any specific project or to obligate any available funds.

National Environmental Policy Act

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA funding. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA website: *http://www.nepa.noaa.gov/*, including NOAA Administrative Order 216–6 for NEPA, and the Council on Environmental Quality's (CEQ) implementation regulations. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, safety concerns, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non–indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems).

It is the applicant's responsibility to obtain all necessary Federal, state, and local government permits and approvals where necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts to the environment. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed project. The failure to do so shall be grounds for not awarding a grant. Documentation of requests/completion of required environmental authorizations and permits, including Endangered Species Act or Marine Mammal Protection Act authorizations, if applicable, should be included in the application package. Applications will be reviewed to ensure that they contain sufficient information to allow NOAA staff to conduct a NEPA analysis so that appropriate NEPA documentation, required as part of the application package, can be submitted to the NOAA Grants Management Division along with the recommendation for funding for selected applications.

Applicants proposing restoration activities that cannot be categorically excluded from further NEPA analysis, or that are not covered by the NOAA Fisheries Community–based Restoration Program Environmental Assessment (PEA) and Finding of No Significant Impact (FONSI) or Supplemental PEA and FONSI, or whose activities are not covered under another agency's NEPA compliance procedures that can be analyzed and adopted for use by NOAA, will be informed after the technical review stage to determine if NEPA compliance and other requirements can otherwise be expeditiously met so that a project can proceed within the timeframes anticipated under American Recovery and Reinvestment Act. The CRP PEA and FONSI can be found at: *http://www.habitat.noaa.gov/recovery*.

If additional information is required after an application is accepted, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental law compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment and to verify compliance with any environmental laws.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

Department of Commerce Pre–Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696) are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection–of–information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866 (Regulatory Impact Review)

This notice has been determined to be not significant for purposes of the Executive Order 12866.

Executive Order 12132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: March 2, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E9–4801 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Nomination of Existing Marine Protected Areas to the National System of Marine Protected Areas

AGENCY: NOAA, Department of Commerce (DOC).

ACTION: Public notice and opportunity for comment on the list of nominations received from Federal, State and territorial marine protected area programs to join the National System of Marine Protected Areas.

SUMMARY: NOAA and the Department of the Interior (DOI) invited Federal, State, commonwealth, and territorial marine protected areas (MPA) programs with potentially eligible existing MPAs to nominate their sites to the national system of MPAs. The national system and the nomination process are described in the *Framework for the National System of Marine Protected Areas of the United States* (Framework), developed in response to Executive Order 13158 on Marine Protected Areas. The final Framework was published on November 19, 2008, and provides guidance for collaborative efforts among Federal, State, commonwealth, territorial, Tribal and local governments and stakeholders to develop an effective and well coordinated National System of MPAs (national system) that includes existing MPAs meeting national system criteria as well as new sites that may be established by managing agencies to fill key conservation gaps in important ocean areas.

DATES: Comment on the nominations to the national system of MPAs are due April 6, 2009.

ADDRESSES: Comments should be sent to Joseph A. Uravitch, National Oceanic and Atmospheric Administration, National Marine Protected Areas Center, 1305 East West Highway, N/ORM, Silver Spring, MD 20910. Fax: (301) 713–3110. E-mail: *mpa.comments@noaa.gov*. Comments will be accepted in written form by mail, e-mail, or fax.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, NOAA, at 301–713–3100, ext. 136 or via e-mail at *mpa.comments@noaa.gov*. An electronic copy of the list of nominated MPAs is available for download at *http://www.mpa.gov*.

SUPPLEMENTARY INFORMATION:

Background on National System

The national system of MPAs includes member MPA sites, networks and systems established and managed by Federal, State, Tribal and/or local governments that collectively enhance conservation of the nation's natural and cultural marine heritage and represent its diverse ecosystems and resources. Although participating sites continue to be managed independently, national system MPAs also work together at the regional and national levels to achieve common objectives for conserving the nation's important natural and cultural resources, with emphasis on achieving the priority conservation objectives of the Framework. MPAs include sites with a wide range of protection, from multiple use areas to no take reserves where all extractive uses are prohibited. The term MPA refers only to the marine portion of a site (below the mean high tide mark) that may include both terrestrial and marine components.

Benefits of joining the national system of MPAs, which are expected to increase over time as the system matures, include a facilitated means to work with other MPAs in the region, and nationally on issues of common conservation concern; fostering greater public and international recognition of MPAs and the resources they protect; priority in the receipt of available technical and other support for cross-cutting needs; and the opportunity to influence Federal and regional ocean conservation and management initiatives (such as integrated ocean observing systems, systematic monitoring and evaluation, targeted outreach to key user groups, and helping to identify and address MPA research needs). In addition, the national system provides a forum for coordinated regional planning about place-based conservation priorities that does not currently exist.

Joining the national system does not restrict or require changes affecting the designation process or management of member MPAs. It does not bring State, territorial or local sites under Federal authority. It does not establish new regulatory authority. The national system is a mechanism to foster great collaboration among participating MPA sites and programs enhance stewardship in the waters of the United States.

Nomination Process

The Framework describes two major focal areas for building the national system of MPAs—a nomination process to allow existing MPAs that meet the entry criteria to become part of the system and a collaborative regional gap analysis process to identify areas of significance for natural or cultural resources that may merit additional protection through existing Federal, State, commonwealth, territorial, Tribal or local MPA authorities. The initial nomination process for the national system began on November 25, 2008, when the National Marine Protected Areas Center (MPA Center) sent a letter to Federal, State, commonwealth, and territorial MPA programs inviting them to submit nominations of eligible MPAs to the national system. The initial deadline for nominations was January 31, 2009; this was extended to February 13, 2009.

There are three entry criteria for existing MPAs to join the national system, plus a fourth for cultural heritage. Sites that meet all pertinent criteria are eligible for the national system.

1. Meets the definition of an MPA as defined in the Framework.

2. Has a management plan (can be site-specific or part of a broader programmatic management plan; must have goals and objectives and call for monitoring or evaluation of those goals and objectives).

3. Contributes to at least one priority conservation objective as listed in the Framework.

4. Cultural heritage MPAs must also conform to criteria for the National Register for Historic Places.

The MPA Center used existing information in the MPA Inventory to determine which MPAs meet the first and second criteria. The inventory is online at *http://www.mpa.gov/helpful_resources/inventory.html*, and potentially eligible sites are posted online at *http://mpa.gov/pdf/national-system/allsitesumsheet120408.pdf*. As part of the nomination process, the managing entity for each potentially eligible site is asked to provide information on the third and fourth criteria.

List of MPAs Nominated to the National System

The following MPAs have been nominated by their managing programs to join the national system of MPAs. A list providing more detail for each site is available at *http://www.mpa.gov*.

Federal Marine Protected Areas

Marine National Monument

Papahanaumokuakea Marine National Monument, Hawaii.

National Marine Sanctuaries

Channel Islands National Marine Sanctuary.
Cordell Bank National Marine Sanctuary.
Fagatele Bay National Marine Sanctuary.
Florida Keys National Marine Sanctuary.
Flower Garden Banks National Marine Sanctuary.
Gray's Reef National Marine Sanctuary.
Stellwagen Bank National Marine Sanctuary.
Gulf of the Farallones National Marine Sanctuary.
Hawaiian Islands Humpback Whale National Marine Sanctuary.
Monitor National Marine Sanctuary.
Monterey Bay National Marine Sanctuary.
Olympic Coast National Marine Sanctuary.
Thunder Bay National Marine Sanctuary.

National Parks

Assateague Island National Seashore.
Biscayne National Park.
Channel Islands National Park.
Dry Tortugas National Park.
Everglades National Park.
Glacier Bay National Park.
Isle Royale National Park.
Point Reyes National Park.
Virgin Islands Coral Reef National Monument.
Virgin Islands National Park.

National Wildlife Refuges

ACE Basin National Wildlife Refuge.
Alaska Maritime National Wildlife Refuge.
Alligator River National Wildlife Refuge.
Anahuac National Wildlife Refuge.
Aransas National Wildlife Refuge.
Arctic National Wildlife Refuge.
Back Bay National Wildlife Refuge.
Baker Island National Wildlife Refuge.
Bandon Marsh National Wildlife Refuge.
Big Boggy National Wildlife Refuge.
Big Branch Marsh National Wildlife Refuge.
Blackwater National Wildlife Refuge.
Block Island National Wildlife Refuge.
Bombay Hook National Wildlife Refuge.
Bon Secour National Wildlife Refuge.
Brazoria National Wildlife Refuge.
Breton National Wildlife Refuge.
Cape May National Wildlife Refuge.
Cape Romain National Wildlife Refuge.
Cedar Island National Wildlife Refuge.
Cedar Keys National Wildlife Refuge.
Chassahowitzka National Wildlife Refuge.
Chincoteague National Wildlife Refuge.
Conscience Point National Wildlife Refuge.
Crocodile Lake National Wildlife Refuge.
Cross Island National Wildlife Refuge.
Crystal River National Wildlife Refuge.
Currituck National Wildlife Refuge.
Delta National Wildlife Refuge.
Don Edwards San Francisco Bay National Wildlife Refuge.
Dungeness National Wildlife Refuge.
Eastern Neck National Wildlife Refuge.
Eastern Shore of Virginia National Wildlife Refuge.
Edwin B. Forsythe National Wildlife Refuge.
Featherstone National Wildlife Refuge
Fisherman Island National Wildlife Refuge
Grand Bay National Wildlife Refuge.
Grays Harbor National Wildlife Refuge.
Great Bay National Wildlife Refuge.
Great White Heron National Wildlife Refuge.
Guam National Wildlife Refuge.
Howland Island National Wildlife Refuge.
Huron National Wildlife Refuge.
Island Bay National Wildlife Refuge.
J.N. Ding Darling National Wildlife Refuge.
Jarvis Island National Wildlife Refuge.
John H. Chafee National Wildlife Refuge.
Johnston Island National Wildlife Refuge.
Key West National Wildlife Refuge.
Kingman Reef National Wildlife Refuge.
Lewis and Clark National Wildlife Refuge.
Lower Suwannee National Wildlife Refuge.
Mackay Island National Wildlife Refuge.
Marin Islands National Wildlife Refuge.
Martin National Wildlife Refuge.
Mashpee National Wildlife Refuge.
Matlacha Pass National Wildlife Refuge.
Midway Atoll National Wildlife Refuge.
Monomoy National Wildlife Refuge.
National Key Deer Refuge.
Nestucca Bay National Wildlife Refuge.
Ninigret National Wildlife Refuge.
Nisqually National Wildlife Refuge.
Nomans Land Island National Wildlife Refuge.
Occoquan Bay National Wildlife Refuge.
Oyster Bay National Wildlife Refuge.
Palmyra Atoll National Wildlife Refuge.
Parker River National Wildlife Refuge.
Pea Island National Wildlife Refuge.
Pelican Island National Wildlife Refuge.
Pine Island National Wildlife Refuge.
Pinellas National Wildlife Refuge.
Plum Tree Island National Wildlife Refuge.

Pond Island National Wildlife Refuge.
Prime Hook National Wildlife Refuge.
Protection Island National Wildlife Refuge.
Rachel Carson National Wildlife Refuge.
Rose Atoll National Wildlife Refuge.
Sabine National Wildlife Refuge.
Sachuest Point National Wildlife Refuge.
San Bernard National Wildlife Refuge.
San Pablo Bay National Wildlife Refuge.
Seatuck National Wildlife Refuge.
Shell Keys National Wildlife Refuge.
Siletz Bay National Wildlife Refuge.
St. Marks National Wildlife Refuge.
St. Vincent National Wildlife Refuge.
Stewart B. McKinney National Wildlife Refuge.
Supawna Meadows National Wildlife Refuge.
Susquehanna National Wildlife Refuge.
Swanquarter National Wildlife Refuge.
Sweetwater Marsh National Wildlife Refuge.
Target Rock National Wildlife Refuge.
Ten Thousand Islands National Wildlife Refuge.
Waccamaw National Wildlife Refuge.
Wallops Island National Wildlife Refuge.
Wertheim National Wildlife Refuge.
Willapa National Wildlife Refuge.
Yukon Delta National Wildlife Refuge.

Federal/State Partnership Marine Protected Areas

National Estuarine Research Reserves

Guana Tolomato Matanzas National Estuarine Research Reserve, Florida.
Jacques Cousteau National Estuarine Research Reserve, New Jersey.
Rookery Bay National Estuarine Research Reserve, Florida.
Waquoit Bay National Estuarine Research Reserve, Massachusetts.

State Marine Protected Areas

American Samoa

Aua.

California

Areas of Special Biological Significance (ASBS)

Ano Nuevo Area of Special Biological Significance.
Bird Rock Area of Special Biological Significance.
Bodega Area of Special Biological Significance.
Carmel Bay Area of Special Biological Significance.
Del Mar Area of Special Biological Significance.
Double Point Area of Special Biological Significance.
Duxbury Reef Area of Special Biological Significance.
Farallon Islands Area of Special Biological Significance.
Farnsworth Bank Area of Special Biological Significance.
Gerstle Cove Area of Special Biological Significance.
Heisler Park Area of Special Biological Significance.
Irvine Coast Area of Special Biological Significance.
James V. Fitzgerald Area of Special Biological Significance.
Jughandle Cove Area of Special Biological Significance.
Julia Pfeiffer Burns Area of Special Biological Significance.
King Range Area of Special Biological Significance.
La Jolla Area of Special Biological Significance.
Laguna Point to Latiga Point Area of Special Biological Significance.
Northwest Santa Catalina Area of Special Biological Significance.
Pacific Creek Area of Special Biological Significance.
Point Lobos Area of Special Biological Significance.
Point Reyes Headlands Area of Special Biological Significance.
Redwoods National Park Area of Special Biological Significance.
Robert E. Badham Area of Special Biological Significance.
Salmon Creek Coast Area of Special Biological Significance.
San Clemente Area of Special Biological Significance.
San Diego Scripps Area of Special Biological Significance.
San Nicolas Island & Begg Rock Area of Special Biological Significance.
Santa Barbara & Anacapa Island Area of Special Biological Significance.
Santa Rosa & Santa Cruz Island Area of Special Biological Significance.
Saunders Reef Area of Special Biological Significance.
Southeast Santa Catalina Area of Special Biological Significance.
Trinidad Head Area of Special Biological Significance.
Western Santa Catalina Area of Special Biological Significance.

Marine Life Protection Act Initiative—California's central coast MPAs

Ano Nuevo State Marine Conservation Area.
Asilomar State Marine Reserve.
Big Creek State Marine Conservation Area.
Big Creek State Marine Reserve.
Cambria State Marine Conservation Area.
Carmel Bay State Marine Conservation Area.
Carmel Pinnacles State Marine Reserve.
Edward F. Ricketts State Marine Conservation Area.
Elkhorn Slough State Marine Conservation Area.
Elkhorn Slough State Marine Reserve.
Greyhound Rock State Marine Conservation Area.
Lovers Point State Marine Reserve.
Moro Cojo Slough State Marine Reserve.
Morro Bay State Marine Recreational Management Area.
Morro Bay State Marine Reserve.
Natural Bridges State Marine Reserve.
Pacific Grove Marine Gardens State Marine Conservation Area.
Piedras Blancas State Marine Conservation Area.
Piedras Blancas State Marine Reserve.
Point Buchon State Marine Conservation Area.
Point Buchon State Marine Reserve.
Point Lobos State Marine Conservation Area.
Point Lobos State Marine Reserve.
Point Sur State Marine Conservation Area.
Point Sur State Marine Reserve.
Portuguese Ledge State Marine Conservation Area.
Soquel Canyon State Marine Conservation Area.
Vandenberg State Marine Reserve.
White Rock (Cambria) State Marine Conservation Area.

Florida

See National Estuarine Research Reserves, above.

Hawaii

Ahihi Kina'u Natural Area Reserve.
Hanauma Bay Marine Life Conservation District, Oahu.
Kaho'olawe Island Reserve.
Kealakekua Bay Marine Life Conservation District.
Molokini Shoal Marine Life Conservation District.
Pupukea Marine Life Conservation District, Oahu.
West Hawaii Regional Fisheries Management Area.

Maryland

U–1105 Black Panther Historic Shipwreck Preserve.

Massachusetts

See National Estuarine Research Reserves, above.

New Jersey

See National Estuarine Research Reserves, above.

Virginia

Bethel Beach Natural Area Preserve.
Dameron Marsh Natural Area Preserve.
False Cape State Park.
Hughlett Point Natural Area Preserve.
Kiptopeke State Park.

Savage Neck Dunes Natural Area Preserve.

Washington

Admiralty Head Preserve.
Argyle Lagoon San Juan Islands Marine Preserve.
Blake Island Underwater Park.
Brackett's Landing Shoreline Sanctuary Conservation Area.
Cherry Point Aquatic Reserve.
Cypress Island Aquatic Reserve.
Deception Pass Underwater Park.
False Bay San Juan Islands Marine Preserve.
Fidalgo Bay Aquatic Reserve.
Friday Harbor San Juan Islands Marine Preserve.
Haro Strait Special Management Fishery Area.
Maury Island Aquatic Reserve.
San Juan Channel & Upright Channel Special Management Fishery Area.
Orchard Rocks Conservation Area.
Shaw Island San Juan Islands Marine Preserve.
South Puget Sound Wildfire Area.
Sund Rock Conservation Area.
Yellow and Low Islands San Juan Islands Marine Preserve.
Zelia Schultz/Protection Island Marine Preserve.

Review and Approval

Following this public comment period, the MPA Center will forward public comments to the relevant managing entity or entities, which will reaffirm or withdraw (in writing to the MPA Center) the nomination. After final MPA Center review, mutually agreed upon MPAs will be accepted into the national system and the List of National System MPAs will be posted at *http://www.mpa.gov*.

Dated: March 3, 2009.

John H. Dunnigan,

Assistant Administrator.

[FR Doc. E9–4809 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN24

Taking and Importing Marine Mammals; Operations of a Liquified Natural Gas Port Facility in Massachusetts Bay

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

ACTION: Notice; proposed incidental harassment authorization and receipt of application for five-year regulations; request for comments and information.

SUMMARY: NMFS has received a request from the Northeast Gateway Energy Bridge L.L.C. (Northeast Gateway or NEG) and its partner, Algonquin Gas Transmission, LLC (Algonquin), for authorization to take marine mammals incidental to operating and maintaining a liquified natural gas (LNG) port facility and its associated Pipeline Lateral by NEG and Algonquin, in Massachusetts Bay for the period of May 2009 through May 2014. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Northeast Gateway and Algonquin to incidentally take, by harassment, small numbers of marine mammals for a period of 1 year. NMFS is also requesting comments, information, and suggestions concerning Northeast Gateway's application and the structure and content of future regulations.

DATES: Comments and information must be received no later than April 6, 2009.

ADDRESSES: Comments should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. The mailbox address for providing email comments on this action is *PR1.0648–XN24@noaa.gov*. Comments sent via email, including all attachments, must not exceed a 10–megabyte file size. A copy of the application and a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) and is also available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

The Maritime Administration (MARAD) and U.S. Coast Guard (USCG) Final Environmental Impact Statement (Final EIS) on the Northeast Gateway Energy Bridge LNG Deepwater Port license application is available for viewing at *http://dms.dot.gov* under the docket number 22219.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On August 15, 2008, NMFS received an application from Tetra Tech EC, Inc., on behalf of Northeast Gateway and Algonquin for an authorization to take 12 species of marine mammals by Level B harassment incidental to operation and maintenance of an LNG port facility in Massachusetts Bay. Since LNG Port operation and maintenance activities have the potential to take marine mammals, a marine mammal take authorization under the MMPA is warranted. NMFS has already issued a one-year incidental harassment

authorization for this activity pursuant to section 101(a)(5)(D) of the MMPA (73 FR 29485, May 21, 2008), which expires on May 20, 2009. In order to for Northeast Gateway and Algonquin to continue their operation and maintenance of the LNG port facility in Massachusetts Bay, both companies are seeking a renewal of their IHA. On January 26, 2009, Northeast Gateway and Algonquin submitted a revised MMPA permit application with modified activities. The modified activities will also include certain operation and maintenance (O&M) activities to the Algonquin Pipeline Lateral for a limited time. Because the LNG Port facility and Algonquin Pipeline Lateral operation and maintenance activities will be ongoing in the foreseeable future, NMFS will propose regulations pursuant to section 101(a)(5)(A) of the MMPA, which would govern these incidental takes under a Letter of Authorization for up to five years. Under section 101(a)(5)(A), NMFS also must prescribe mitigation, monitoring, and reporting requirements in its regulations.

Description of the Activity

The Northeast Gateway Port is located in Massachusetts Bay and consists of a submerged buoy system to dock specially designed LNG carriers approximately 13 mi (21 km) offshore of Massachusetts in federal waters approximately 270 to 290 ft (82 to 88 m) in depth. This facility delivers regasified LNG to onshore markets via a 16.06–mi (25.8–km) long, 24–in (61–cm) outside diameter natural gas pipeline lateral (Pipeline Lateral) owned and operated by Algonquin and interconnected to Algonquin's existing offshore natural gas pipeline system in Massachusetts Bay (HubLine).

The Northeast Gateway Port consists of two subsea Submerged Turret Loading (STL) buoys, each with a flexible riser assembly and a manifold connecting the riser assembly, via a steel flowline, to the subsea Pipeline Lateral. Northeast Gateway utilizes vessels from its current fleet of specially designed Liquefied Natural Gas Regasification Vessels (LNGRVs), each capable of transporting approximately 2.9 billion ft^3 (82 million m^3) of natural gas condensed to 4.9 million $feet^3$ (138,000 m^3) of LNG. Northeast Gateway would also be adding vessels to its fleet that will have a cargo capacity of approximately 151,000 cubic m^3. The mooring system installed at the Northeast Gateway Port is designed to handle both the existing vessels and any of the larger capacity vessels that may come into service in the future. The LNGRVs would dock to the STL buoys, which would serve as both the single-point mooring system for the vessels and the delivery conduit for natural gas. Each of the STL buoys is secured to the seafloor using a series of suction anchors and a combination of chain/cable anchor lines.

The proposed activity includes Northeast Gateway LNG Port operation and maintenance.

NEG Port Operations

During NEG Port operations, LNGRVs servicing the Northeast Gateway Port will utilize the newly configured and International Maritime Organization-approved Boston Traffic Separation Scheme (TSS) on their approach to and departure from the Northeast Gateway Port at the earliest practicable point of transit. LNGRVs will maintain speeds of 12 knots or less while in the TSS, unless transiting the Off Race Point Seasonal Management Area between the dates of March 1 and April 30, or the Great South Channel Seasonal Management Area between the dates of April 1 and July 31, when they will not exceed 10–knots or when there have been active right whale sightings, active acoustic detections, or both, in the vicinity of the transiting LNGRV in the TSS or at the Northeast Gateway Port, in which case the vessels also will slow their speeds to 10 knots or less.

As an LNGRV makes its final approach to the Northeast Gateway Port, vessel speed will gradually be reduced to 3 knots at 1.86 mi (3 km) out to less than 1 knot at a distance of 1,640 ft (500 m) from the Northeast Gateway Port. When an LNGRV arrives at the Northeast Gateway Port, it would retrieve one of the two permanently anchored submerged STL buoys. It would make final connection to the buoy through a series of engine and bow thruster actions. The LNGRV would require the use of thrusters for dynamic positioning during docking procedure. Typically, the docking procedure is completed over a 10- to 30–minute period, with the thrusters activated as necessary for short periods of time in second bursts, not a continuous sound source. Once connected to the buoy, the LNGRV will begin vaporizing the LNG into its natural gas state using the onboard regasification system. As the LNG is regasified, natural gas will be transferred at pipeline pressures off the LNGRV through the STL buoy and flexible riser via a steel flowline leading to the connecting Pipeline Lateral. When the LNG vessel is on the buoy, wind and current effects on the vessel would be allowed to ''weathervane'' on the single-point mooring system; therefore, thrusters will not be used to maintain a stationary position.

It is estimated that the NEG Port could receive approximately 65 cargo deliveries a year. During this time period thrusters would be engaged in use for docking at the NEG Port approximately 10 to 30 minutes for each vessel arrival and departure.

NEG Port Maintenance

The specified design life of the NEG Port is about 40 years, with the exception of the anchors, mooring chain/rope, and riser/umbilical assemblies, which are based on a maintenance-free design life of 20 years. The buoy pick-up system components are considered consumable and would be inspected following each buoy connection, and replaced (from inside the STL compartment during the normal cargo discharge period) as deemed necessary. The underwater components of the NEG Port would be inspected once yearly in accordance with Classification Society Rules (American Bureau of Shipping) using either divers or remotely operated vehicles (ROVs) to inspect and record the condition of the various STL system components. These activities would be conducted using the NEG Port's normal support vessel (125–foot, 99 gross ton, 2,700 horsepower, aluminum mono-hull vessel), and to the extent possible would coincide with planned weekly visits to the NEG Port. Helicopters would not be used for marker line maintenance inspections.

Detailed information on the operations and maintenance activities can be found in the MARAD/USCG Final EIS on the Northeast Gateway Project (see **ADDRESSES** for availability) and in the take application. Detailed information on the LNG facility's operation and maintenance activities, and noise generated from operations was also published in the **Federal Register** for the proposed IHA for Northeast Gateway's LNG Port construction and operations on March 13, 2007 (72 FR 11328).

Algonquin Pipeline Lateral Operation and Maintenance (O&M)

The O&M activities associated with the Algonquin Pipeline Lateral can be subdivided into two categories, Routine O&M Activities and Unplanned Repair Work.

A. Routine O&M Activities

The planned activities required for the O&M of the Algonquin Pipeline Lateral and Flowlines over a one year period are limited. Similar to the inspection of the NEG Port underwater components, the only planned O&M

activity is the annual inspection of the cathodic protection monitors by a ROV. The monitors are located at the ends of the Algonquin Pipeline Lateral and the adjacent Flowlines. Each inspection activity will take approximately three days and will utilize a ROV launched from a vessel of opportunity. The most likely vessel will be similar to the NEG Port's normal support vessel referenced in NEG Port Maintenance section. This vessel is self-positioning and requires no anchors or use of thrusters. It will mobilize from Salem, Massachusetts, and will inspect the monitors in the vicinity of the NEG Port and at the point where the Algonquin Pipeline Lateral interconnects with Algonquin's HubLine. These activities will be performed during daylight hours and during periods of good weather.

B. Unplanned Pipeline Repair Activities

Unplanned O&M activities may be required from time to time at a location along the Algonquin Pipeline Lateral or along one of the Flowlines should the line become damaged or malfunction.

Should repair work be required, it is likely a dive vessel would be the main vessel used to support the repair work. The type of diving spread and the corresponding vessel needed to support the spread would be dictated by the type of repair work required and the water depth at the work location. In addition, the type of vessel used may vary depending upon availability. The duration of an unplanned activity would also vary depending upon the repair work involved (e.g., repairing or replacing a section of the pipeline, connection, or valve) but can generally be assumed to take less than 40 work days to complete based on industry experience with underwater pipeline repairs.

A diving spread required to execute an unplanned activity might necessitate several vessels. Most likely the dive vessel would support a saturation diving spread and be moored at the work location using four anchors. This vessel would likely be accompanied by an attendant tug to assist with anchor placement. Once secured at the work location, the dive vessel would remain on site through the completion of the work, weather permitting. A crew/supply boat would be utilized to intermittently provide labor and supply transfers. Once or twice during the work, a tug may be required to bring a material barge to and from the location. While unlikely, there is a small possibility that a second dive vessel would be required to support the main dive vessel, depending upon the work activity. The second dive vessel would be on-site for a shorter work duration. These vessels would be supported from an onshore base located between Quincy, Massachusetts and Gloucester, Massachusetts.

The selection of a dive vessel will be driven by the technical requirements of the work. In addition, the degree of urgency required to address the work and the availability of vessels will also enter into the decision process for securing a dive vessel. It may be that a four point moored dive vessel is either not available or doesn't meet the technical capabilities required by the work. It then becomes possible that a dynamically positioned (DP) dive vessel may have to be utilized. The use of a DP dive vessel removes the need for an attendant tug to support the vessel since no anchors will be deployed. However, potential impacts related to noise are increased when a DP dive vessel is used. The noise generated by a DP dive vessel varies, and results from the use of the thrusters at various levels to maintain the vessel's position during the work depending upon currents, winds, waves and other forces acting on the vessel at the time of the work.

Description of Marine Mammals in the Area of the Specified Activities

Marine mammal species that potentially occur in the vicinity of the Northeast Gateway facility include several species of cetaceans and pinnipeds:

North Atlantic right whale (*Eubalaena glacialis*),
humpback whale (*Megaptera novaeangliae*),
fin whale (*Balaenoptera physalus*),
minke whale (*B. acutorostrata*),
long-finned pilot whale (*Globicephala melas*),
Atlantic white-sided dolphin (*Lagenorhynchus acutus*),
bottlenose dolphin (*Tursiops truncatus*),
common dolphin (*Delphinus delphis*),
killer whale (*Orcinus orca*),
harbor porpoise (*Phocoena phocoena*),
harbor seal (*Phoca vitulina*), and
gray seal (*Halichoerus grypus*).

Information on those species that may be affected by this activity are discussed in detail in the USCG Final EIS on the Northeast Gateway LNG proposal. Please refer to that document for more information on these species and potential impacts from construction and operation of this LNG facility. In addition, general information on these marine mammal species can also be found in Wursig *et al.* (2000) and in the NMFS Stock Assessment Reports (Waring *et al.*, 2007). This latter document is available at: *http://www.nefsc.noaa.gov/nefsc/publications/tm/tm201/*. An updated summary on several commonly sighted marine mammal species distribution and abundance in the vicinity of the proposed action area is provided below.

Humpback Whale

The highest abundance for humpback whales is distributed primarily along a relatively narrow corridor following the 100–m (328 ft) isobath across the southern Gulf of Maine from the northwestern slope of Georges Bank, south to the Great South Channel, and northward alongside Cape Cod to Stellwagen Bank and Jeffreys Ledge. The relative abundance of whales increases in the spring with the highest occurrence along the slope waters (between the 40- and 140–m, or 131- and 459–ft, isobaths) off Cape Cod and Davis Bank, Stellwagen Basin and Tillies Basin and between the 50- and 200–m (164- and 656–ft) isobaths along the inner slope of Georges Bank. High abundance is also estimated for the waters around Platts Bank. In the summer months, abundance increases markedly over the shallow waters (<50 m, or <164 ft) of Stellwagen Bank, the waters (100 - 200 m, or 328 - 656 ft) between Platts Bank and Jeffreys Ledge, the steep slopes (between the 30- and 160–m isobaths) of Phelps and Davis Bank north of the Great South Channel towards Cape Cod, and between the 50- and 100–m (164- and 328–ft) isobath for almost the entire length of the steeply sloping northern edge of Georges Bank. This general distribution pattern persists in all seasons except winter, when humpbacks remain at high abundance in only a few locations including Porpoise and Neddick Basins adjacent to Jeffreys Ledge, northern Stellwagen Bank and Tillies Basin, and the Great South Channel.

Fin Whale

Spatial patterns of habitat utilization by fin whales are very similar to those of humpback whales. Spring and summer high-use areas follow the 100–m (328 ft) isobath along the northern edge of Georges Bank (between the 50- and 200–m (164- and 656–ft) isobaths), and northward from the Great South Channel (between the 50- and 160–m, or 164- and 525–ft, isobaths). Waters around Cashes Ledge, Platts Bank, and Jeffreys Ledge are all high-use areas in the summer months. Stellwagen Bank is a high-use area for fin whales in all seasons, with highest abundance occurring over the southern Stellwagen Bank in the summer months. In fact, the southern portion of the Stellwagen Bank

National Marine Sanctuary (SBNMS) is used more frequently than the northern portion in all months except winter, when high abundance is recorded over the northern tip of Stellwagen Bank. In addition to Stellwagen Bank, high abundance in winter is estimated for Jeffreys Ledge and the adjacent Porpoise Basin (100- to 160–m, 328- to 656–ft, isobaths), as well as Georges Basin and northern Georges Bank.

Minke Whale

Like other piscivorous baleen whales, highest abundance for minke whale is strongly associated with regions between the 50- and 100–m (164- and 328–ft) isobaths, but with a slightly stronger preference for the shallower waters along the slopes of Davis Bank, Phelps Bank, Great South Channel and Georges Shoals on Georges Bank. Minke whales are sighted in the SBNMS in all seasons, with highest abundance estimated for the shallow waters (approximately 40 m, or 131 ft) over southern Stellwagen Bank in the summer and fall months. Platts Bank, Cashes Ledge, Jeffreys Ledge, and the adjacent basins (Neddick, Porpoise and Scantium) also support high relative abundance. Very low densities of minke whales remain throughout most of the southern Gulf of Maine in winter.

North Atlantic Right Whale

North Atlantic right whales are generally distributed widely across the southern Gulf of Maine in spring with highest abundance locate over the deeper waters (100- to 160–m, or 328- to 525–ft, isobaths) on the northern edge of the Great South Channel and deep waters (100 300 m, 328 - 984 ft) parallel to the 100–m (328–ft) isobath of northern Georges Bank and Georges Basin. High abundance is also found in the shallowest waters (<30 m, or <98 ft) of Cape Cod Bay, over Platts Bank and around Cashes Ledge. Lower relative abundance is estimated over deep-water basins including Wilkinson Basin, Rodgers Basin and Franklin Basin. In the summer months, right whales move almost entirely away from the coast to deep waters over basins in the central Gulf of Maine (Wilkinson Basin, Cashes Basin between the 160- and 200–m, or 525- and 656–ft, isobaths) and north of Georges Bank (Rogers, Crowell and Georges Basins). Highest abundance is found north of the 100–m (328–ft) isobath at the Great South Channel and over the deep slope waters and basins along the northern edge of Georges Bank. The waters between Fippennies Ledge and Cashes Ledge are also estimated as high-use areas. In the fall months, right whales are sighted infrequently in the Gulf of Maine, with highest densities over Jeffreys Ledge and over deeper waters near Cashes Ledge and Wilkinson Basin. In winter, Cape Cod Bay, Scantum Basin, Jeffreys Ledge, and Cashes Ledge were the main high-use areas. Although SBNMS does not appear to support the highest abundance of right whales, sightings within SBNMS are reported for all four seasons, albeit at low relative abundance. Highest sighting within SBNMS occured along the southern edge of the Bank.

Long-finned Pilot Whale

The long-finned pilot whale is more generally found along the edge of the continental shelf (a depth of 330 to 3,300 ft, or 100 to 1,000 m), choosing areas of high relief or submerged banks in cold or temperate shoreline waters. This species is split between two subspecies: the Northern and Southern subspecies. The Southern subspecies is circumpolar with northern limits of Brazil and South Africa. The Northern subspecies, which could be encountered during operation of the NEG Port, ranges from North Carolina to Greenland (Reeves *et al.*, 2002; Wilson and Ruff, 1999). In the western North Atlantic, long-finned pilot whales are pelagic, occurring in especially high densities in winter and spring over the continental slope, then moving inshore and onto the shelf in summer and autumn following squid and mackerel populations (Reeves *et al.*, 2002). They frequently travel into the central and northern Georges Bank, Great South Channel, and Gulf of Maine areas during the summer and early fall (May and October) (NOAA, 1993). According to the species stock report, the population estimate for the Gulf of Maine/Bay of Fundy long-finned pilot whale is 14,524 individuals (Waring *et al.*, 2004).

Atlantic White-Sided Dolphin

In spring, summer and fall, Atlantic white-sided dolphins are widespread throughout the southern Gulf of Maine, with the high-use areas widely located either side of the 100–m (328–ft) isobath along the northern edge of Georges Bank, and north from the Great South Channel to Stellwagen Bank, Jeffreys Ledge, Platts Bank and Cashes Ledge. In spring, high-use areas exist in the Great South Channel, northern Georges Bank, the steeply sloping edge of Davis Bank and Cape Cod, southern Stellwagen Bank and the waters between Jeffreys Ledge and Platts Bank. In summer, there is a shift and expansion of habitat toward the east and northeast. High-use areas are identified along most of the northern edge of Georges Bank between the 50- and 200–m (164- and 656–ft) isobaths and northward from the Great South Channel along the slopes of Davis Bank and Cape Cod. High sightings are also recorded over Truxton Swell, Wilkinson Basin, Cashes Ledge and the bathymetrically complex area northeast of Platts Bank. High sightings of white-sided dolphin are recorded within SBNMS in all seasons, with highest density in summer and most widespread distributions in spring locate mainly over the southern end of Stellwagen Bank. In winter, high sightings are recorded at the northern tip of Stellwagen Bank and Tillies Basin.

A comparison of spatial distribution patterns for all baleen whales (Mysticeti) and all porpoises and dolphins combined show that both groups have very similar spatial patterns of high- and low-use areas. The baleen whales, whether piscivorous or planktivorous, are more concentrated than the dolphins and porpoises. They utilize a corridor that extended broadly along the most linear and steeply sloping edges in the southern Gulf of Maine indicated broadly by the 100 m (328 ft) isobath. Stellwagen Bank and Jeffreys Ledge support a high abundance of baleen whales throughout the year. Species richness maps indicate that high-use areas for individual whales and dolphin species co-occurr, resulting in similar patterns of species richness primarily along the southern portion of the 100–m (328–ft) isobath extending northeast and northwest from the Great South Channel. The southern edge of Stellwagen Bank and the waters around the northern tip of Cape Cod are also highlighted as supporting high cetacean species richness. Intermediate to high numbers of species are also calculated for the waters surrounding Jeffreys Ledge, the entire Stellwagen Bank, Platts Bank, Fippennies Ledge and Cashes Ledge.

Killer Whale, Common Dolphin, Bottlenose Dolphin, and Harbor Porpoise

Although these four species are some of the most widely distributed small cetacean species in the world (Jefferson *et al.*, 1993), they are not commonly seen in the vicinity of the proposed project area in Massachusetts Bay (Wiley *et al.*, 1994; NCCOS, 2006; Northeast Gateway Marine Mammal Monitoring Weekly Reports, 2007).

Harbor Seal and Gray Seal

In the U.S. waters of the western North Atlantic, both harbor and gray seals are usually found from the coast of

Maine south to southern New England and New York (Warrings *et al.*, 2007).

Along the southern New England and New York coasts, harbor seals occur seasonally from September through late May (Schneider and Payne, 1983). In recent years, their seasonal interval along the southern New England to New Jersey coasts has increased (deHart, 2002). In U.S. waters, harbor seal breeding and pupping normally occur in waters north of the New Hampshire/Maine border, although breeding has occurred as far south as Cape Cod in the early part of the 20th century (Temte *et al.*, 1991; Katona *et al.*, 1993).

Although gray seals are often seen off the coast from New England to Labrador, within the U.S. waters, only small numbers of gray seals have been observed pupping on several isolated islands along the Maine coast and in Nantucket-Vineyard Sound, Massachusetts (Katona *et al.*, 1993; Rough, 1995). In the late 1990s, a year-round breeding population of approximately over 400 gray seals was documented on outer Cape Cod and Muskeget Island (Warring *et al.*, 2007).

Potential Effects of Noise on Marine Mammals

The effects of noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.*, 1995): (1) The noise may be too weak to be heard at the location of the animal (i.e., lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) The noise may be audible but not strong enough to elicit any overt behavioral response; (3) The noise may elicit reactions of variable conspicuousness and variable relevance to the well being of the marine mammal; these can range from temporary alert responses to active avoidance reactions such as vacating an area at least until the noise event ceases; (4) Upon repeated exposure, a marine mammal may exhibit diminishing responsiveness (habituation), or disturbance effects may persist; the latter is most likely with sounds that are highly variable in characteristics, infrequent and unpredictable in occurrence, and associated with situations that a marine mammal perceives as a threat; (5) Any anthropogenic noise that is strong enough to be heard has the potential to reduce (mask) the ability of a marine mammal to hear natural sounds at similar frequencies, including calls from conspecifics, and underwater environmental sounds such as surf noise; (6) If mammals remain in an area because it is important for feeding, breeding or some other biologically important purpose even though there is chronic exposure to noise, it is possible that there could be noise-induced physiological stress; this might in turn have negative effects on the well-being or reproduction of the animals involved; and (7) Very strong sounds have the potential to cause temporary or permanent reduction in hearing sensitivity. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any temporary threshold shift (TTS) in its hearing ability. For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound. Received sound levels must be even higher for there to be risk of permanent hearing impairment. In addition, intense acoustic (or explosive events) may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

There are three general categories of sounds recognized by NMFS: continuous (such as shipping sounds), intermittent (such as vibratory pile driving sounds), and impulse. No impulse noise activities, such as blasting or standard pile driving, are associated with this project. The noise sources of potential concern are regasification/offloading (which is a continuous sound) and dynamic positioning of vessels using thrusters (an intermittent sound) from LNGRVs during docking at the NEG port facility and from repair vessels during Algonquin Pipeline Lateral repair and maintenance for diving support. Based on research by Malme *et al.* (1983; 1984), for both continuous and intermittent sound sources, Level B harassment is presumed to begin at received levels of 120–dB. The detailed description of the noise that would result from the proposed LNG Port operations and Pipeline Lateral O&M activities is provided in the **Federal Register** for the initial construction and operations of the NEG LNG Port facility and Pipeline Lateral in 2007 (72 FR 27077; May 14, 2007).

NEG Port Activities

Underwater noise generated at the NEG Port has the potential to result from two distinct actions, including closed-loop regasification of LNG and/or LNGRV maneuvering during coupling and decoupling with STL buoys. To evaluate the potential for these activities to result in underwater noise that could harass marine mammals, Excelerate Energy, L.L.C. (Excelerate) conducted field sound survey studies during periods of March 21 to 25, 2005 and August 6 to 9, 2006 while the LNGRV Excelsior was both maneuvering and moored at the operational Gulf Gateway Port located 116 mi (187 km) offshore in the Gulf of Mexico (the Gulf) (see Appendices B and C of the NEG and Algonquin application). LNGRV maneuvering conditions included the use of both stern and bow thrusters required for dynamic positioning during coupling. These data were used to model underwater sound propagation at the NEG Port. The pertinent results of the field survey are provided as underwater sound source pressure levels as follows:

- Sound levels during closed-loop regasification ranged from 104 to 110 decibel linear (dBL). Maximum levels during steady state operations were 108 dBL.
- Sound levels during coupling operations were dominated by the periodic use of the bow and stern thrusters and ranged from 160 to 170 dBL.

Figures 1–1 and 1–2 of the NEG and Algonquin's revised MMPA permit application present the net acoustic impact of one LNGRV operating at the NEG Port. Thrusters are operated intermittently and only for relatively short durations of time. The resulting area within the 120 dB isopleth is less than 1 km2 with the linear distance to the isopleths extending 430 m (1,411 ft). The area within the 180 dB isopleth is very localized and will not extend beyond the immediate area where LNGRV coupling operations are occurring.

The potential impacts to marine mammals associated with sound propagation from vessel movements, anchors, chains and LNG regasification/offloading could be the temporary and short-term displacement of seals and whales from within the 120–dB zones ensonified by these noise sources. Animals would be expected to re-occupy the area once the noise ceases.

Unplanned Pipeline Lateral Repair Activities

As discussed previously, pipeline repairs may be required from time to time should the pipeline become damaged or malfunction. While the need for repairs to underwater pipelines is typically infrequent, in the event that a pipeline repair is required, it is most likely that anchor-moored vessels will be used. If so, underwater noise will not be generated at the level of concern for marine mammals.

However, there is the potential that underwater noise will be generated within the 120 dB threshold for level B harassment for marine mammals if DP vessels are used to perform the work. Given the limited availability of DP dive support vessels, it is most likely that an anchor-moored dive vessel will be used, though the possibility that a DP vessel would be used cannot be ruled out. Depending on the nature of the repair, the work could last for up to 40 work days. The possibility that a DP vessel would be used to perform a pipeline repair is the only instance in which underwater noise will be generated within the 120 dB threshold for level B harassment in connection with Algonquin's ownership or operation of the Algonquin Pipeline Lateral.

In general, DP vessels are fitted with six thrusters of three main types: main propellers, tunnel thrusters and azimuth thrusters. Two or three tunnel thrusters are usually fitted in the bow. Stern tunnel thrusters are also common, operating together but controlled individually, as are azimuth or compass thrusters placed in the rear. Azimuth thrusters are located beneath the bottom of the vessel and can be rotated to provide thrust in any direction. During vessel operation, the thrusters engage in varying numbers and at varying intensity levels, as needed to control and maintain vessel location based on sea and weather conditions. While at least one thruster is always engaged in at least partial capacity, higher noise levels are generated periodically when greater numbers of thrusters need to engage, and when thrusters are at closer to their full capacity. Thruster underwater noise levels are principally caused by cavitation, which is a combination of broadband noise and tonal sounds at discrete frequencies.

In August 2007, during construction of the NEG Port and Algonquin Pipeline Lateral, Northeast Gateway collected sound measurements of vessels used to support construction including crew boats, support tugs, and diver support vessels which required the steady use of thrusters as well as unassociated boat movements routinely occurring outside the immediate construction zone. These vessels are similar to those which may be employed during pipeline repair.

Based upon the measurement data collected, results showed no exceedance of the 180 dBL level for potential Level B harassment that could cause TTS during any of the monitoring periods in the acoustic far field ranging from 605 to 1,050 m (1,985 to 3,445 ft) (see Figure 1–3 of the NEG and Algonquin MMPA permit application). However, construction activities involving the use of DP vessels did exceed the 120 dBL Level B behavioral harassment threshold for this sound bype, principally at low and mid-range frequencies.

It is important to note, however, that even though measurements showed construction activities periodically resulted in the exceedances of the Level B behavioral harassment threshold, such received sound pressure levels may not in every instance be perceptible to marine life, as hearing thresholds are largely frequency-dependent and vary considerably from species to species. In addition, though ambient noise in shallow waters such as the Gulf of Maine tends to be highly variable in both time and location, existing elevated ambient conditions inherent within the Massachusetts Bay environment may effectively mask noise generated by future offshore repair work at short to moderate distances from where the work is occurring. This is particularly true during elevated wind and seastate conditions when the use of thrusters is more predominant. At the same time, the ambient underwater noise intensity levels will be higher during these periods as well.

Estimates of Take by Harassment

Although Northeast Gateway stated that the ensonified area of 120–dB isopleths by LNGRV's decoupling would be less than 1 km^2 as measured in the Gulf of Mexico in 2005, due to the lack of more recent sound source verification and the lack of source measurement in Massachusetts Bay, NMFS uses a more conservative spreading model to calculate the 120 dB isopleth received sound level. This model was also used to establish 120–dB zone of influence (ZOI) for the previous IHAs issued to Northeast Gateway. In the vicinity of the LNG Port, where the water depth is about 80 m (262 ft), the 120–dB radius is estimated to be 2.56 km (1.6 mi) maximum from the sound source during dynamic positioning for the container ship, making a maximum ZOI of 21 km^2 (8.1 mi^2). For shallow water depth (40 m or 131 ft) representative of the northern segment of the Algonquin Pipeline Lateral, the 120–dB radius is estimated to be 3.31 km (2.06 mi), the associated ZOI is 34 km^2 (13.1 mi^2).

The basis for Northeast Gateway and Algonquin's ''take'' estimate is the number of marine mammals that would be exposed to sound levels in excess of 120 dB. For the NEG port facility operations, the take estimates are determined by multiplying the area of the LNGRV's ZOI (21 km^2) by local marine mammal density estimates, corrected to account for 50 percent more marine mammals that may be underwater, and then multiplying by the estimated LNG container ship visits per year. For the Algonquin Pipeline Lateral O&M activities, the take estimates are determined by multiplying the area of ZOI (34 km^2) resulting from the DP vessel used in repair by local marine mammal density estimates, corrected to account for 50 percent more marine mammals that may be underwater, and then multiplying by the number of dates O&M activities are conducted per year. In the case of data gaps, a conservative approach was used to ensure the potential number of takes is not underestimated, as described next.

NMFS recognizes that baleen whale species other than North Atlantic right whales have been sighted in the project area from May to November. However, the occurrence and abundance of fin, humpback, and minke whales is not well documented within the project area. Nonetheless, NMFS uses the data on cetacean distribution within Massachusetts Bay, such as those published by the National Centers for Coastal Ocean Science (NCCOS, 2006), to estimate potential takes of marine mammals species in the vicinity of project area.

The NCCOS study used cetacean sightings from two sources: (1) the North Atlantic Right Whale Consortium (NARWC) sightings database held at the University of Rhode Island (Kenney, 2001); and (2) the Manomet Bird Observatory (MBO) database, held at NMFS Northeast Fisheries Science Center (NEFSC). The NARWC data contained survey efforts and sightings data from ship and aerial surveys and opportunistic sources between 1970 and 2005. The main data contributors included: Cetacean and Turtles Assessment Program (CETAP), Canadian Department of Fisheries and Oceans, PCCS, International Fund for Animal Welfare, NOAA's NEFSC, New England Aquarium, Woods Hole Oceanographic Institution, and the University of Rhode Island. A total of 653,725 km (406,293 mi) of survey track and 34,589 cetacean observations were provisionally selected for the NCCOS study in order to minimize bias from uneven allocation of survey effort in both time and space. The sightings-per-unit-effort (SPUE) was calculated for all cetacean species by month covering the southern Gulf of Maine study area, which also includes the project area (NCCOS, 2006).

The MBO's Cetacean and Seabird Assessment Program (CSAP) was contracted from 1980 to 1988 by NMFS NEFSC to provide an assessment of the

relative abundance and distribution of cetaceans, seabirds, and marine turtles in the shelf waters of the northeastern United States (MBO, 1987). The CSAP program was designed to be completely compatible with NMFS NEFSC databases so that marine mammal data could be compared directly with fisheries data throughout the time series during which both types of information were gathered. A total of 5,210 km (8,383 mi) of survey distance and 636 cetacean observations from the MBO data were included in the NCCOS analysis. Combined valid survey effort for the NCCOS studies included 567,955 km (913,840 mi) of survey track for small cetaceans (dolphins and porpoises) and 658,935 km (1,060,226 mi) for large cetaceans (whales) in the southern Gulf of Maine. The NCCOS study then combined these two data sets by extracting cetacean sighting records, updating database field names to match the NARWC database, creating geometry to represent survey tracklines and applying a set of data selection criteria designed to minimize uncertainty and bias in the data used.

Owing to the comprehensiveness and total coverage of the NCCOS cetacean distribution and abundance study, NMFS calculated the estimated take number of marine mammals based on the most recent NCCOS report published in December 2006. A summary of seasonal cetacean distribution and abundance in the project area is provided above, in the Marine Mammals Affected by the Activity section. For a detailed description and calculation of the cetacean abundance data and sighting per unit effort (SPUE), please refer to the NCCOS study (NCCOS, 2006). These data show that the relative abundance of North Atlantic right, fin, humpback, minke, and pilot whales, and Atlantic white-sided dolphins for all seasons, as calculated by SPUE in number of animals per square kilometer, is 0.0082, 0.0097, 0.0265, 0.0059, 0.0407, and 0.1314 n/km, respectively.

In calculating the area density of these species from these linear density data, NMFS used 0.4 km (0.25 mi), which is a quarter the distance of the radius for visual monitoring (see Proposed Monitoring, Mitigation, and Reporting section below), as a conservative hypothetical strip width (W). Thus the area density (D) of these species in the project area can be obtained by the following formula:

$D = SPUE/2W$.

Based on this calculation method, the estimated take numbers per year for North Atlantic right, fin, humpback, minke, and pilot whales, and Atlantic white-sided dolphins by the NEG Port facility operations, which is an average of 65 visits by LNG container ships to the project area per year (or approximately 1.25 visits per week), operating the vessels' thrusters for dynamic positioning before offloading natural gas, corrected for 50 percent underwater, are 21, 25, 68, 15, 104, and 336, respectively.

The estimated take number per year for North Atlantic right, fin, humpback, minke, and pilot whales, and Atlantic white-side dolphin by the Algonquin Pipeline Lateral O&M activities, based on a maximum of 40 days by the operation of DP vessels for diver support, corrected for 50 percent underwater, are 21, 25, 68, 15, 104, and 335, respectively.

The total estimated take numbers of these species per year are: 42 North Atlantic right, 50 fin, 136 humpback, 30 minke, 208 pilot whales, and 671 Atlantic white-sided dolphins. These numbers represent maximum of 12.9, 2.2, 15.0, 0.9, 0.7, and 1.1 percent of the populations for these species, respectively. Since it is very likely that individual animals could be ''taken'' by harassment multiple times, these percentages are the upper boundary of the animal population that could be affected. Therefore, the actual number of individual animals being exposed or taken would be far less. There is no danger of injury, death, or hearing impairment from the exposure to these noise levels.

In addition, bottlenose dolphins, common dolphins, killer whales, harbor porpoises, harbor seals, and gray seals could also be taken by Level B harassment as a result of deepwater LNG port operations and Pipeline Lateral O&M activities. The numbers of estimated take of these species are not available because they are rare in the project area. The population estimates of these marine mammal species and stock in the west North Atlantic basin are 81,588; 120,743; 89,700; 99,340; and 195,000 for bottlenose dolphins, common dolphins, harbor porpoises, harbor seals, and gray seals, respectively (Waring *et al.*, 2007). No population estimate is available for the North Atlantic stock of killer whales, however, their occurrence within the proposed project area is rare. Since the Massachusetts Bay represents only a small fraction of the west North Atlantic basin where these animals occur, and these animals do not congregate in the vicinity of the project area, NMFS believes that only relatively small numbers of these marine mammal species would be potentially affected by the Northeast Gateway LNG deepwater project. From the most conservative estimates of both marine mammal densities in the project area and the size of the 120–dB zone of (noise) influence, the calculated number of individual marine mammals for each species that could potentially be harassed annually is small relative to the overall population size.

Potential Impact on Habitat

Operation of the NEG Port and Algonquin Pipeline Lateral will result in long-term effects on the marine environment, including alteration of seafloor conditions, continued disturbance of the seafloor, regular withdrawal of sea water, and regular generation of underwater noise. A small area (0.14 acre) along the Pipeline Lateral will be permanently altered (armored) at two cable crossings. In addition, the structures associated with the Port will occupy 4.8 acres of seafloor. An additional area of the seafloor of up to 38 acres will be subject to disturbance due to chain sweep while the buoys are occupied. The benthic community in the up-to 38 acres of soft bottom that may be swept by the anchor chains while EBRVs are docked will have limited opportunity to recover, so this area will experience a long-term reduction in benthic productivity.

Each LNGRV will require the withdrawal of an average of 4.97 million gallons per day of sea water for general ship operations during its 8–day stay at the Port. Plankton associated with the sea water will not likely survive this activity. Based on densities of plankton in Massachusetts Bay, it is estimated that sea water use during operations will consume, on a daily basis, about three 200 x 1,010 phytoplankton cells (about several hundred grams of biomass), 6.5 x 108 zooplankters (equivalent to about 1.2 kg of copepods), and on the order of 30,000 fish eggs and 5,000 fish larvae. Also, the daily removal of sea water will reduce the food resources available for planktivorous organisms. However, the removal of these species is minor relative to the overall area they occupy and unlikely to measurably affect the food sources available to marine mammals.

Proposed Monitoring and Mitigation Measures

For the proposed NEG LNG port operations and Algonquin Pipeline Lateral O&M activities, NMFS proposes the following monitoring and mitigation measures.

Marine Mammal Observers

For activities related to the NEG LNG port operations, all individuals onboard the LNGRVs responsible for the navigation and lookout duties on the vessel must receive training prior to assuming navigation and lookout duties, a component of which will be training on marine mammal sighting/reporting and vessel strike avoidance measures. Crew training of LNGRV personnel will stress individual responsibility for marine mammal awareness and reporting.

If a marine mammal is sighted by a crew member, an immediate notification will be made to the Person-in-Charge on board the vessel and the Northeast Port Manager, who will ensure that the required vessel strike avoidance measures and reporting procedures are followed.

For activities related to the Algonquin Pipeline Lateral O&M, two qualified Maine Mammal Observers (MMOs) will be assigned to each DP vessel (each operating individually in designated shifts to accommodate adequate rest schedules). Their exclusive responsibility is to watch for marine mammals and to alert the construction crew supervisor if marine mammals are visually detected within the most conservatively estimated ZOI, within 2 mi (3.31 km) of the DP vessel, to allow for mitigating responses. MMOs will maintain logs at all times while on watch. All personnel will have experience in marine mammal detection and observation during marine construction. MMOs will maintain in situ records while on watch and therefore visual observation will not be affected. Additional MMOs may be assigned to additional vessels if auto-detection buoy (AB) data shows sound levels from additional vessels in excess of 120 dB re 1 microPa, further than 100 m (328 ft) from the vessel.

Each MMO will scan the area surrounding the construction vessel s for visual signs of non-vocalizing whales that may enter the construction area. Observations will take place from the highest available vantage point on the vessels. General 360 scanning will occur during the monitoring periods, and target scanning by the observer will occur when alerted of a whale presence.

Searching will take place at all hours of the day. Night-time observations will be conducted with the aid of a night-vision scope where practical. Observers, using binoculars, will estimate distances to marine mammals either visually or by using reticled binoculars. If higher vantage points (>25 ft or 7.6 m) are available, distances can be measured using inclinometers. Position data will be recorded using hand-held or vessel global positioning system (GPS) units for each sighting, vessel position change, and any environmental change.

Environmental data to be collected will include Beaufort sea state, wind speed, wind direction, ambient temperature, precipitation, glare, and percent cloud cover. Wind and temperature data will be extracted from onboard meteorological stations (when available). Animal data to be collected includes number, species, position, distance, behavior, direction of movement, and apparent reaction to construction activity. All data will be entered at the time of observation. Notes of activities will be kept and a daily report will be prepared and attached to the daily field form.

Distance and Noise Level for Cut-Off

For all whales near DP vessels, the MMO observation will be the principal detection tool available. If a North Atlantic right whale or other marine mammal is seen within the 2 mi (3.31 km) ZOI of a DP vessel or other construction vessel that has been shown to emit noises in excess of 120 dB re 1 microPa, then the MMO will alert the construction crew to minimize the use of thrusters until the animal has moved away unless there are divers in the water or an ROV is deployed.

During Algonquin Pipeline Lateral O&M, the following procedures would be followed upon detection of a marine mammal within 0.5 mi (0.8 km) of the repair vessels:

(1) The vessel superintendent or on-deck supervisor will be notified immediately. The vessel's crew will be put on a heightened state of alert. The marine mammal will be monitored constantly to determine if it is moving toward the Pipeline Lateral repair area. The observer is required to report all North Atlantic right whale sightings to NMFS, as soon as possible.

(2) If a marine mammal other than a right whale is sighted within or approaching at a distance of 100 yd (91 m), or if a right whale is sighted within or approaching to a distance of 500 yd (457 m) from the operating construction vessel and the nature of the repair activity at the time would not compromise either the health and safety of divers on the bottom or the integrity of the pipeline, construction vessel(s) will cease any movement and cease all activities that emit sounds reaching a received level of 120 dB re 1 microPa or higher as soon as practicable. The back-calculated source level, based on the most conservative cylindrical model of acoustic energy spreading, is estimated to be 139 dB re 1 microPa. Vessels transiting the repair area will also be required to maintain these separation distances.

(3) Repair work may resume after the marine mammal is positively reconfirmed outside the established zones (either 500 yd (457 m) or 100 yd (91 m), depending upon species).

Vessel Strike Avoidance

(1) All LNGRVs approaching or departing the port will comply with the Mandatory Ship Reporting (MSR) system to keep apprised of right whale sightings in the vicinity. Vessel operators will also receive active detections from an existing passive acoustic array prior to and during transit through the northern leg of the Boston TSS where the buoys are installed.

(2) In response to active right whale sightings (detected acoustically or reported through other means such as the MSR or Sighting Advisory System (SAS)), and taking into account safety and weather conditions, LNGRVs will take appropriate actions to minimize the risk of striking whales, including reducing speed to 10 knots or less and alerting personnel responsible for navigation and lookout duties to concentrate their efforts.

(3) LNGRVs will maintain speeds of 12 knots or less while in the TSS until reaching the vicinity of the buoys (except during the seasons and areas defined below, when speed will be limited to 10 knots or less). At 1.86 mi (3 km) from the NEG port, speed will be reduced to 3 knots, and to less than 1 knot at 1,640 ft (500 m) from the buoy.

(4) LNGRVs will reduce transit speed to 10 knots or less over ground from March 1 - April 30 in all waters bounded by straight lines connecting the following points in the order stated below. This area is known as the Off Race Point Seasonal Management Area (SMA) and tracks NMFS regulations at 50 CFR 224.105:

42°30'00.0'' N –069° 45'00.0'' W; thence to 42° 30'00.0'' N 070 30'00.0″ W; thence to 42° 12'00.0″ N–070° 30'00.0″ W; thence to 42° 12'00.0″ N–070° 12'00.0″ W; thence to 42° 04'56.5″ N–070 ° 12'00.0″ W; thence along charted mean high water line and inshore limits of COLREGS limit to a latitude of 41° 40'00.0″ N; thence due east to 41° 41'00.0″ N–069° 45'00.0'' W; thence back to starting point.

(5) LNGRVs will reduce transit speed to 10 knots or less over ground from April 1 - July 31 in all waters bounded by straight lines connecting the following points in the order stated below. This area is also known as the

Great South Channel SMA and tracks NMFS regulations at 50 CFR 224.105:

42°30'00.0″ N 69°45'00.0″ W
41°40'00.0″ N 69°45'00.0″ W
41°00'00.0″ N 69°05'00.0Prime; W
42°09'00.0″ N 67°08'24.0″ W
42°30'00.0″ N 67°27'00.0″ W
42°30'00.0″ N 69°45'00.0″ W

(6) LNGRVs are not expected to transit Cape Cod Bay. However, in the event transit through Cape Cod Bay is required, LNGRVs will reduce transit speed to 10 knots or less over ground from January 1 - May 15 in all waters in Cape Cod Bay, extending to all shorelines of Cape Cod Bay, with a northern boundary of 42°12'00.0″ N latitude.

(7) A vessel may operate at a speed necessary to maintain safe maneuvering speed instead of the required ten knots only if justified because the vessel is in an area where oceanographic, hydrographic and/or meteorological conditions severely restrict the maneuverability of the vessel and the need to operate at such speed is confirmed by the pilot on board or, when a vessel is not carrying a pilot, the master of the vessel. If a deviation from the ten-knot speed limit is necessary, the reasons for the deviation, the speed at which the vessel is operated, the latitude and longitude of the area, and the time and duration of such deviation shall be entered into the logbook of the vessel. The master of the vessel shall attest to the accuracy of the logbook entry by signing and dating it.

Research Passive Acoustic Monitoring (PAM) Program

Northeast Gateway shall monitor the noise environment in Massachusetts Bay in the vicinity of the NEG Port and Algonquin Pipeline Lateral using an array of 19 Marine Autonomous Recording Units (MARUs) that were deployed initially in April 2007 to collect data during the preconstruction and active construction phases of the NEG Port and Algonquin Pipeline Lateral. A description of the MARUs can be found in Appendix A of the NEG application. These 19 MARUs will remain in the same configuration during full operation of the NEG Port and Algonquin Pipeline Lateral. The MARUs collect archival noise data and are not designed to provide real-time or near-real-time information about vocalizing whales. Rather, the acoustic data collected by the MARUs shall be analyzed to document the seasonal occurrences and overall distributions of whales (primarily fin, humpback, and right whales) within approximately 10 nautical miles of the NEG Port, and shall measure and document the noise ''budget'' of Massachusetts Bay so as to eventually assist in determining whether an overall increase in noise in the Bay associated with the NEG Port and Algonquin Pipeline Lateral might be having a potentially negative impact on marine mammals. The overall intent of this system is to provide better information for both regulators and the general public regarding the acoustic footprint associated with long-term operation of the NEG Port and Algonquin Pipeline Lateral in Massachusetts Bay, and the distribution of vocalizing marine mammals during NEG Port and Algonquin Pipeline Lateral O&M activities (analyzed to assess impacts of former on latter). In addition to the 19 MARUs, Northeast Gateway will deploy 10 ABs within the TSS for the operational life of the NEG Port and Algonquin Pipeline Lateral. A description of the ABs is provided in Appendix A of this NEG and Algonquin's application. The purpose of the ABs shall be to detect a calling North Atlantic right whale an average of 5 nm (9.26 km) from each AB (detection ranges will vary based on ambient underwater conditions). The AB system shall be the primary detection mechanism that alerts the LNGRV Master and/or Algonquin Pipeline support vessel captains to the occurrence of right whales, heightens LNGRV or pipeline support vessel awareness, and triggers necessary mitigation actions as described in the Marine Mammal Detection, Monitoring, and Response Plan included as Appendix A of the NEG application.

Northeast Gateway has engaged representatives from Cornell University's Bioacoustics Research Program (BRP) and the Woods Hole Oceanographic Institution (WHOI) as the consultants for developing, implementing, collecting, and analyzing the acoustic data; reporting; and maintaining the acoustic monitoring system.

Further information detailing the deployment and operation of arrays of 19 passive seafloor acoustic recording units (MARUs) centered on the terminal site and the 10 ABs that are to be placed at approximately 5–m (8.0–km) intervals within the recently modified TSS can be found in the Marine Mammal Detection, Monitoring, and Response Plan included as Appendix A of the NEG application.

Reporting

The Project area is within the Mandatory Ship Reporting Area (MSRA), so all vessels entering and exiting the MSRA will report their activities to WHALESNORTH. During all phases of the Northeast Gateway LNG Port operations and the Algonquin Pipeline Lateral O&M activities, sightings of any injured or dead marine mammals will be reported immediately to the USCG or NMFS, regardless of whether the injury or death is caused by project activities.

An annual report on marine mammal monitoring and mitigation would be submitted to NMFS Office of Protected Resources and NMFS Northeast Regional Office within 90 days after the expiration of an LOA. The annual report shall include data collected for each distinct marine mammal species observed in the project area in the Massachusetts Bay during the period of LNG facility operation. Description of marine mammal behavior, overall numbers of individuals observed, frequency of observation, and any behavioral changes and the context of the changes relative to operation activities shall also be included in the annual report.

ESA

On February 5, 2007, NMFS concluded consultation with MARAD and the USCG, under section 7 of the ESA, on the proposed construction and operation of the Northeast Gateway LNG facility and issued a biological opinion. The finding of that consultation was that the construction and operation of the Northeast Gateway LNG terminal may adversely affect, but is not likely to jeopardize, the continued existence of northern right, humpback, and fin whales, and is not likely to adversely affect sperm, sei, or blue whales and Kemp's ridley, loggerhead, green or leatherback sea turtles. An incidental take statement (ITS) was issued following NMFS' issuance of the IHA.

On November 15, 2007, Northeast Gateway and Algonquin submitted a letter to NMFS requesting an extension for the LNG Port construction into December 2007. Upon reviewing Northeast Gateway's weekly marine mammal monitoring reports submitted under the previous IHA, NMFS recognized that the potential take of some marine mammals resulting from the LNG Port and Pipeline Lateral by Level B behavioral harassment likely had exceeded the original take estimates. Therefore, NMFS Northeast Region (NER) reinitiated consultation with MARAD and USCG on the construction and operation of the Northeast Gateway LNG facility. On November 30, 2007, NMFS NER issued a revised biological opinion, reflecting the revised construction time period and including a revised ITS. This revised biological opinion concluded

that the construction and operation of the Northeast Gateway LNG terminal may adversely affect, but is not likely to jeopardize, the continued existence of northern right, humpback, and fin whales, and is not likely to adversely affect sperm, sei, or blue whales. Currently, NMFS is consulting with NMFS NER on to determine whether the modified activities with the inclusion of Algonquin Pipeline Lateral O&M activities would have any adverse impact to listed species.

NEPA

MARAD and the USCG released a Final EIS/Environmental Impact Report (EIR) for the proposed Northeast Gateway Port and Pipeline Lateral. A notice of availability was published by MARAD on October 26, 2006 (71 FR 62657). The Final EIS/EIR provides detailed information on the proposed project facilities, construction methods and analysis of potential impacts on marine mammal.

NMFS was a cooperating agency (as defined by the Council on Environmental Quality (40 CFR 1501.6)) in the preparation of the Draft and Final EISs. NMFS has reviewed the Final EIS and has adopted it. Therefore, the preparation of another EIS or EA is not warranted.

Preliminary Determinations

NMFS has preliminarily determined that the impact of operation of the Northeast Gateway LNG Port facility and the Algonquin Pipeline Lateral O&M activities may result, at worst, in a temporary modification in behavior of small numbers of certain species of marine mammals that may be in close proximity to the Northeast Gateway LNG facility and associated pipeline during its operation, maintenance, and repair. These activities are expected to result in some local short-term displacement and will have no more than a negligible impact on the affected species or stocks of marine mammals.

This preliminary determination is supported by proposed mitigation, monitoring, and reporting measures described in this document on this action.

As a result of the described proposed mitigation and monitoring measures, no take by injury or death would be requested, anticipated or authorized, and the potential for temporary or permanent hearing impairment is very unlikely due to the relatively low noise levels (and consequently small zone of impact).

While the number of marine mammals that may be harassed will depend on the distribution and abundance of marine mammals in the vicinity of the LNG Port facility and the Pipeline Lateral, the estimated numbers of marine mammals to be harassed is small relative to the affected species or stock sizes. Please see Estimate of Take by Harassment section below for the calculation of these take numbers.

Proposed Authorization

NMFS proposes to issue an IHA to Northeast Gateway and Algonquin for conducting LNG Port facility and Pipeline Lateral operations and maintenance in Massachusetts Bay, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed IHA and Northeast Gateway and Algonquin's application for incidental take regulations (see **ADDRESSES**). NMFS requests interested persons to submit comments, information, and suggestions concerning both the request and the structure and content of future regulations to allow this taking. NMFS will consider this information in developing proposed regulations to govern the taking.

Dated: February 26, 2009.

James H Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–4799 Filed 3–5–09; 8:45 am]

BILLING CODE 3510–22–S

COMMISSION OF FINE ARTS

Notice of Meeting

Established By Congress 17 May 1910: National Building Museum, 401 F Street, NW., Suite 312, Washington, DC 20001–2728, 202–504–2200, 202–504–2195 fax.

BAC: 6330–01.

Commission of Fine Arts

The next meeting of the U.S. Commission of Fine Arts is scheduled for 19 March 2009, at 10 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street, NW., Washington DC, 2000 1–2728. Items of discussion may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *http://www.cfa.gov*. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: February 23, 2009 in Washington, DC.

Thomas Luebke,

Secretary.

[FR Doc. E9–4578 Filed 3–5–09; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS). The purpose of the Committee meeting is to receive briefings and hear panels on women's roles in deployment, review 2009 topics, and develop protocols. The meeting is open to the public, subject to the availability of space.

DATES: March 23–24, 2009, 8:30 a.m.–5 p.m.

ADDRESSES: Double Tree Hotel Crystal City National Airport, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: MSgt Robert Bowling, USAF, DACOWITS, 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. *Robert.bowling@osd.mil*; Telephone (703) 697–2122; Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION:

Meeting Agenda

Monday, March 23, 2009 8:30 a.m.–5 p.m.

—Welcome and announcements
—Women's roles in deployment panels
—Briefings
—Public Forum

Tuesday, March 24, 2009 8:30 a.m.–5 p.m.

—Review research questions
—Develop Protocol questions
—Discuss 2009 topics and schedule

Interested persons may submit a written statement for consideration by

the Defense Department Advisory Committee on Women in the Services. Individuals submitting a written statement must submit their statement to the Point of Contact listed above at the address detailed above NLT 5 p.m., Thursday, March 19, 2009. If a written statement is not received by Thursday, March 19, 2009, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Department Advisory Committee on Women in the Services until its next open meeting. The Designated Federal Officer will review all timely submissions with the Defense Department Advisory Committee on Women in the Services Chairperson and ensure they are provided to the members of the Defense Department Advisory Committee on Women in the Services.

If members of the public are interested in making an oral statement, a written statement must be submitted as above. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Determination of who will be making an oral presentation will depend on time available and if the topics are relevant to the Committee's activities. Two minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Monday, March 23, 2009 from 4:30 p.m. to 5 p.m. before the full Committee. Number of oral presentations to be made will depend on the number of requests received from members of the public.

February 27, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–4775 Filed 3–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–260–C]

Application To Export Electric Energy; EPCOR Energy Marketing (US) Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: EPCOR Energy Marketing (US) Inc. (EPCOR) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before April 6, 2009.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On April 8, 2002, the Department of Energy (DOE) issued Order No. EA–260 authorizing EPCOR Merchant and Capital (US) Inc. to transmit electric energy from the United States to Canada as a power marketer using international transmission facilities located at the United States border with Canada. On October 13, 2004, DOE issued Order No. EA–260–A which renewed that authorization for a five-year period. On November 21, 2006, DOE issued Order No. EA–260–B which amended the previous authorization to reflect a name change to EPCOR Energy Marketing (US) Inc. EPCOR's Order will expire on April 8, 2009. On February 9, 2009, EPCOR filed an application with DOE to renew the export authority contained in Order No. EA–260–A for an additional five-year term.

The electric energy which EPCOR proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the United States. EPCOR will arrange for the delivery of exports to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International Transmission Co., Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, Inc., New York Power Authority, Niagara Mohawk Power Corp., Northern States Power Company, Vermont Electric Power Company, and Vermont Electric Transmission Co.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by EPCOR has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the EPCOR application to export electric energy to Canada should be clearly marked with Docket No. EA–260–C. Additional copies are to be filed directly with Ken Tsukishima, Director, Comodity Portfolio Management, EPCOR Energy Marketing (US) Inc., EPCOR Place, 505—2nd Street SW., 8th Floor, Calgary, Alberta T2P 1N8, Canada and Lisa H. Tucker, Esq., William M. Keyser, Esq., K&L Gates LLP, 1601 K Street, NW., Washington, DC 20006. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://www.oe.energy.gov/permits_pending.htm*, or by emailing Odessa Hopkins at *Odessa.Hopkins@hq.doe.gov*.

Issued in Washington, DC, on March 2, 2009.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E9–4773 Filed 3–5–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

February 27, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER09–752–000.
Applicants: Alliant Energy Neenah, LLC.
Description: Alliant Energy Neenah, LLC submits Notice of Cancellation of AE-Neenah's Rate Schedule 1, a market-based rate wholesale power sales tariff on file with the Commission.
Filed Date: 02/25/2009.
Accession Number: 20090226–0194.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–753–000.
Applicants: American Electric Power Service Corporation.
Description: American Electric Power Service Corporation submits FERC Electric Tariff, Third Revised Volume No 6.
Filed Date: 02/25/2009.
Accession Number: 20090226–0193.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–754–000.
Applicants: Florida Power Corporation.
Description: Florida Power Corporation submits requests for a waiver of the Commission's notice of filing requirement to allow the amended notice of termination provision to become effective 12/31/08.
Filed Date: 02/25/2009.
Accession Number: 20090226–0191.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–755–000.
Applicants: PJM Interconnection LLC.
Description: PJM Interconnection LLC submits modifications to its Open Access Transmission Tariff to comply with the Order Approving Contested Settlement issued by Commission on 4/10/08.
Filed Date: 02/25/2009.
Accession Number: 20090226–0192.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–756–000.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Corporation submits revised tariff sheet to reflect the actual 2008 value for billing for post-employment benefits and post-retirement benefits other than pensions.
Filed Date: 02/25/2009.
Accession Number: 20090226–0249.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–757–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff, to revise the Section 7 etc.
Filed Date: 02/25/2009.
Accession Number: 20090226–0196.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–758–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits revision to its Membership Agreement, Original Volume No 3.
Filed Date: 02/25/2009.
Accession Number: 20090226–0195.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–759–000.
Applicants: E. ON U.S. LLC.
Description: E. ON U.S. LLC submits an executed network integration transmission service agreement *et al.*
Filed Date: 02/25/2009.
Accession Number: 20090226–0246.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–760–000.
Applicants: Red Shield Acquisition, LLC.
Description: Red Shield Acquisition, LLC submits Amendment 1 to the Standby Facilities Use Agreement between RSA and PPL EnergyPlus, LLC and PPL Great Works, LLC.
Filed Date: 02/25/2009.
Accession Number: 20090226–0247.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–761–000.
Applicants: Central Illinois Public Service Company.
Description: Central Illinois Public Service Company submits Connection Construction Agreement Original Sheet 1 to FERC Electric Tariff, Rate Schedule 119 with AmerenCIPS *et al.*
Filed Date: 02/25/2009.
Accession Number: 20090226–0248.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–763–000.
Applicants: Wisconsin Energy Corporation Operating Companies.
Description: Wisconsin Energy Corporation Operating Companies submits proposed Second Revised Sheet 2 *et al.* to FERC Electric Tariff, Original Volume 2.
Filed Date: 02/26/2009.
Accession Number: 20090227–0196.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER09–764–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits clean and redlined tariff sheets deleting, amending, and revising certain schedules, terms and conditions in WEPC's FERC Electric Tariff, Second Revised Volume No 2.
Filed Date: 02/26/2009.
Accession Number: 20090227–0195.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER09–765–000.
Applicants: Ameren Services Company.
Description: Ameren Services Company submits boundary line agreement by and between Illinois Power Company and Union Electric Company on file as FERC Rate Schedule No 100.
Filed Date: 02/26/2009.
Accession Number: 20090227–0194.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER09–766–000.
Applicants: Central Illinois Public Service Company, Illinois Power Company, Union Electric Company.
Description: Central Illinois Public Service Company *et al.* submit revisions to the AmerenIP-AmerenUE Boundary Line Agreement under Rate Schedule No 88 and 100.
Filed Date: 02/26/2009.
Accession Number: 20090227–0193.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER09–767–000.
Applicants: Ameren Services Company.
Description: Central Illinois Public Service Company submits a Letter Agreement between Ameren Services and Prairie Power, Inc. as agent for Eastern Illini Electric Coop, effective 2/27/09.
Filed Date: 02/26/2009.
Accession Number: 20090227–0192.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER09–768–000.
Applicants: Saranac Power Partners, LP.
Description: Petition of Saranac Power Partners LP for authority to sell energy, capacity and ancillary services at market based rates acceptance of initial rate schedule, waivers, and blanket authority.
Filed Date: 02/26/2009.
Accession Number: 20090227–0191.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER09–771–000.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits an executed transmission service agreement with KCP&L Greater Missouri Operations Co etc.
Filed Date: 02/26/2009.
Accession Number: 20090227–0190.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES08–41–001.
Applicants: El Paso Electric Company.
Description: Supplement to application of El Paso Electric Company for authorization under Section 204 for transactions related to refunding and reissuing pollution control bonds and request for shortened comment period and expedited consideration.
Filed Date: 02/25/2009.
Accession Number: 20090225–5123.
Comment Date: 5 p.m. Eastern Time on Thursday, March 05, 2009.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA08–91–001.
Applicants: Black Hills Power, Inc.
Description: Black Hills Power, Inc submits revised pages of the Joint Open Access Transmission Tariff for the Common Use System, *et al.*
Filed Date: 02/20/2009.
Accession Number: 20090225–0004.
Comment Date: 5 p.m. Eastern Time on Friday, March 13, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–4748 Filed 3–5–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 27, 2009.

Take notice that the Commission received the following electric corporate filings:
Docket Numbers: EC09–57–000.
Applicants: Waterside Power, LLC, Pinpoint Power, LLC, EIF Waterside, LLC, PDC Waterside, LLC, Waterside Power Holdings, LLC.
Description: Application Under Section 203 of the Federal Power Act for Authorization of Transactions and Request for Waivers, Expedited Consideration and Confidential Treatment of EIF Waterside, LLC, *et al.*
Filed Date: 02/26/2009.
Accession Number: 20090226–5071.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:
Docket Numbers: EG09–31–000.
Applicants: Saranac Power Partners, L.P.
Description: Saranac Power Partners, L.P. Notice of Self-Certification as an Exempt Wholesale Generator.
Filed Date: 02/26/2009.
Accession Number: 20090226–5020.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: EG09–32–000.
Applicants: EC&R Panther Creek Wind Farm III, LLC.
Description: EC&R Panther Creek Wind Farm III, LLC Notice of Self-Certification of Exempt Wholesale Generator Status in EG09–32.
Filed Date: 02/27/2009.
Accession Number: 20090227–5149.
Comment Date: 5 p.m. Eastern Time on Friday, March 20, 2009.

Take notice that the Commission received the following electric rate filings:
Docket Numbers: ER01–1403–010; ER01–2968–011; ER06–1443–006; ER04–366–008; ER01–845–009; ER05–1122–007; ER08–107–004.
Applicants: FirstEnergy Operating Companies; FirstEnergy Operating Companies, Pennsylvania Power Co., Jersey Central Power & Light Co., FirstEnergy Solutions Corp., First Energy Generation Corp., FirstEnergy Nuclear Generation Corp., FirstEnergy Mansfield Unit 1, Corp.
Description: Appendix B Listing of Generation and Transmission Assets of FirstEnergy Operating Companies, *et al.* for Triennial Market Power Update Analysis in the Midwest ISO.
Filed Date: 02/26/2009.
Accession Number: 20090226–5061.
Comment Date: 5 p.m. Eastern Time on Thursday, March 19, 2009.

Docket Numbers: ER04–230–042; ER01–1385–036; ER01–3155–027; EL01–45–035.
Applicants: New York Independent System Operator, Inc.; Consolidated Edison Development, Inc.; New York Independent System Operator, Inc.
Description: NYISO filing of its Seventeenth Quarterly Report regarding utilization of combined cycle units.
Filed Date: 02/24/2009.
Accession Number: 20090224–5110.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 17, 2009.

Docket Numbers: ER01–1860–003.
Applicants: Cobb Electric Membership Corp.
Description: Cobb Electric Membership Corp. Supplemental Information to Market Power Update.
Filed Date: 02/25/2009.
Accession Number: 20090225–5049.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER03–9–016; ER98–2157–017.

Applicants: Westar Energy, Inc.; Kansas Gas and Electric Co.
Description: Notice of Change in Status of Westar Energy, Inc.
Filed Date: 02/24/2009.
Accession Number: 20090224–5119.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 17, 2009.

Docket Numbers: ER07–319–004; EL07–73–001.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an Offer of Settlement and Stipulation and accompanying documents which are proposed to resolve all issues pending.
Filed Date: 02/24/2009.
Accession Number: 20090225–0213.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 17, 2009.

Docket Numbers: ER07–1372–015.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits proposed revisions to their Open Access Transmission, Energy and Operating Reserve Markets Tariff.
Filed Date: 01/22/2009.
Accession Number: 20090126–0220.
Comment Date: 5 p.m. Eastern Time on Friday, March 20, 2009.

Docket Numbers: ER08–371–003.
Applicants: Cooperative Energy Inc.
Description: Cooperative Energy Inc. (an Electric Membership Corporation) Supplemental Information to Market Power Update.
Filed Date: 02/25/2009.
Accession Number: 20090225–5050.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–291–001.
Applicants: ISO New England Inc.
Description: ISO New England submits Substitute 1st Rev Sheet 9669 *et al.*
Filed Date: 02/23/2009.
Accession Number: 20090225–0191.
Comment Date: 5 p.m. Eastern Time on Monday, March 16, 2009.

Docket Numbers: ER09–343–001.
Applicants: SC Landfill Energy, LLC.
Description: SC Landfill Energy, LLC submits revisions to Electric Tariff, Original Volume 1.
Filed Date: 02/25/2009.
Accession Number: 20090226–0197.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 18, 2009.

Docket Numbers: ER09–370–002.
Applicants: EPCOR USA North Carolina LLC.
Description: EPCOR USA North Carolina, LLC submits supplement to the Notice of Change in Status re market based rate authority filed on 12/1/08.
Filed Date: 02/23/2009.
Accession Number: 20090225–0008.
Comment Date: 5 p.m. Eastern Time on Monday, March 16, 2009.

Docket Numbers: ER09–734–000.
Applicants: Pittsfield Generating Co., L.P.
Description: Pittsfield Generating Co, LP submits request to waive the application of the unreserved transmission use penalty provisions.
Filed Date: 02/20/2009.
Accession Number: 20090225–0005.
Comment Date: 5 p.m. Eastern Time on Friday, March 13, 2009.

Docket Numbers: ER09–735–000.
Applicants: Black Hills Power, Inc.
Description: Black Hills Power, Inc submits a request for FERC to accept an amendment to an Agreement for Interconnection Service effective as of 1/20/09.
Filed Date: 02/20/2009.
Accession Number: 20090225–0006.
Comment Date: 5 p.m. Eastern Time on Friday, March 13, 2009.

Docket Numbers: ER09–736–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc submits proposed tariff revisions.
Filed Date: 02/20/2009.
Accession Number: 20090225–0007.
Comment Date: 5 p.m. Eastern Time on Friday, March 13, 2009.

Docket Numbers: ER09–741–000.
Applicants: Synergy Power Marketing Inc.
Description: SYNERGY Power Marketing Inc, submits Notice of Cancellation of Market-Based Rate Tariff, and First Revised Sheet 1 to FERC Electric Tariff, Original Volume 1.
Filed Date: 02/23/2009.
Accession Number: 20090225–0010.
Comment Date: 5 p.m. Eastern Time on Monday, March 16, 2009.

Docket Numbers: ER09–746–000.
Applicants: Optim Energy Marketing, LLC.
Description: Optim Energy Marketing, LLC submits a Notice of Succession to inform the Commission of a corporate name change from EnergyCoMarketing & Trading, LLC to Optim Energy Marketing.
Filed Date: 02/24/2009.
Accession Number: 20090225–0211.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 17, 2009.

Docket Numbers: ER09–748–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits proposes to revise its Open Access Transmission Tariff.
Filed Date: 02/24/2009.
Accession Number: 20090225–0209.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 17, 2009.

Docket Numbers: ER09–749–000.
Applicants: Arizona Public Service Co.
Description: Arizona Public Service Co. submits revisions to its Open Access Transmission Tariff incorporate by standards promulgated by the North American Energy Standards Board.
Filed Date: 02/24/2009.
Accession Number: 20090225–0208.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 17, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–4749 Filed 3–5–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0906; FRL–8403–4]

Agency Information Collection Activities; Proposed Collection; Comment Request; Notification of Chemical Exports - TSCA Section 12(b); EPA ICR No. 0795.13, OMB Control No. 2070–0030

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Notification of Chemical Exports - TSCA Section 12(b)'' and identified by EPA ICR No. 0795.13 and OMB Control No. 2070–0030, is scheduled to expire on November 30, 2009. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before May 5, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0906, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0906. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0906. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Gerry Brown, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8086; fax number: (202) 564–4765; e-mail address: *brown.gerry@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates 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.
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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline identified under **DATES**.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does This Action Apply to?

Affected entities: Entities potentially affected by this ICR are companies that export from the United States to foreign countries, or that engage in wholesale sales of, chemical substances or mixtures. These entities are mostly chemical companies classified under the North American Industrial Classification System (NAICS) codes 325 and 32411.

Title: Notification of Chemical Exports - TSCA Section 12(b).

ICR numbers: EPA ICR No. 0795.13, OMB Control No. 2070–0030.

ICR status: This ICR is currently scheduled to expire on November 30, 2009. 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 title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 12(b)(2) of the Toxic Substances Control Act (TSCA) requires that any person who exports or intends to export to a foreign country a chemical substance or mixture that is regulated under TSCA sections 4, 5, 6 and/or 7 submit to EPA notification of such export or intent to export. Upon receipt of notification, EPA will advise the government of the importing country of the U.S. regulatory action with respect to that substance. EPA uses the information obtained from the submitter via this collection to advise the government of the importing country. This information collection addresses the burden associated with industry reporting of export notifications.

Responses to the collection of information are mandatory (see 40 CFR part 707). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 1.39 hours per response. 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 which have subsequently changed; 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 300.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 12.

Estimated total annual burden hours: 4,850 hours.

Estimated total annual costs: $264,255. This includes an estimated burden cost of $264,255 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. Are There Changes in the Estimates From the Last Approval?

There is a decrease of 2,700 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects the net effect of a decrease in the estimated number of notices sent to EPA and a decrease in the number of firms sending notices, based on EPA's recent experience with TSCA section 12(b) notices. This change is an adjustment.

V. What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: February 26, 2009.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E9–4792 Filed 3–5–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8591–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2008 (73 FR 19833).

Draft EISs

EIS No. 20080383, ERP No. D–AFS–B65014–VT, Deerfield WindProject,

Application for a Land Use Authorization to Construct and Operate a Wind Energy Facility, Special Use AuthorizationPermit, Towns of Searsburg and Readsboro, Manchester RangerDistrict, Green Mountain National Forest, Bennington County, VT.

Summary: EPA expressed environmental concerns with potential adverse impacts to the brown bear habitat, the range of alternatives and comprehensive monitoring and mitigation for impacts to brown bear and their habitat.Rating EC2.

EIS No. 20080439, ERP No. D–BLM–L65560–OR, John Day BasinResource Management Plan, To Provide Direction for ManagingPublic Lands in Central and Eastern Oregon, Prineville District,Grant, Wheeler, Gilliam, Wasco, Sherman, Umatilla, Jefferson andMorrow Counties, OR.

Summary: EPA expressed environmental concerns with impacts to water quality and quantity, and aquatic and riparian resources. We recommend incorporating the Alternative 4 grazing strategy, and continuation of watershed analysis per Alternative 1. The finalEIS should further discuss management of Reserve ForageAllotments, and Aquatic Conservation Strategy related to proper functioning condition, management of livestock, and water withdrawal.Rating EC2.

EIS No. 20080485, ERP No. D–SFW–K99040–NV, Southeastern Lincoln County Habitat Conservation Plan, Application Package for Three Incidental Take Permits, Authorize the Take of Desert Tortoise (Gopherus agassizii) and Southwestern Willow Flycatcher (Empidonax traillii extimus), Implementation, Lincoln County, NV.

Summary: EPA expressed concerns about specific conservation measures. EPA requested additional information regarding impacts from desert tortoise relocation, and establishment of a southwestern willow flycatcher habitat mitigation bank.Rating EC2.

Final EISs

EIS No. 20080517, ERP No. F–FHW–C50015–NY, Kosciuszko BridgeProject, Propose Rehabilitation or Replacement a 1.1 mile SegmentBrooklyn-Queens Expressway (–278) from Morgan Avenue in Brooklyn and the Long Island Expressway (1495) in Queens, Kings andQueens Counties, NY.

Summary: EPA's previous concerns about air quality have been resolved; therefore EPA has no objections to the proposed action.

EIS No. 20080525, ERP No. F–FHW–C40173–NJ, I–295/I–76/Route 42Direct Connection Project, To Improve Traffic Safety and ReduceTraffic Congestion, Funding and U.S. Army COE Section 10 and 404Permits, Borough of Bellmawr, Borough of Mount Ephraim andGloucester City, Camden County, NJ.

Summary: EPA's previous concerns about wetlands, air quality and stormwater management have been resolved; therefore EPA has no objection to the proposed action.

EIS No. 20080541, ERP No. F–UPS–K80007–CA, Aliso Viejo IncomingMail Facility, Proposed Construction and Operation of a MailProcessing Facility on a 25-Acre Parcel, Aliso Viejo, OrangeCounty, CA.

Summary: While EPA does not object to this project, EPA requested that the ROD include commitments to the mitigation measures discussed in the EIS.

EIS No. 20090006, ERP No. F–MMS–B09802–00, Cape Wind EnergyProject, Construction, Operation and Maintenance, andDecommissioning of an Electric Generation Facility, Barnstable,Nantucket and Duke Counties, MA and Washington County, RI.

Summary: EPA offered comments concerning the monitoring and mitigation component of the FEIS as well as air quality analysis/permitting and marine impacts and requested that MMS address all substantive comments received on the FEIS in the ROD and to coordinate closely with relevant state and federal agencies during its development.

EIS No. 20090014, ERP No. F–NOA–L39065–OR, Bull Run Water Supply Habitat Conservation Plan, Application for and Incidental Take Permit to cover the Continued Operation and Maintenance, Sandy River Basin, City of Portland, OR.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20090015, ERP No. F–FHW–E40818–TN, TN–397 (Mack Hatcher Parkway Extension) Construction from US–31 (TN–6, Columbia Avenue) South of Franklin to US–341 (TN–106, Hillsboro Road) North of Franklin, Additional Information on the Build Alternative (Alternative G), Williamson County and City of Franklin, TN.

Summary: EPA's previous concerns have been resolved; therefore EPA has no objection with the proposed action.

Dated: March 3, 2009.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–4796 Filed 3–5–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8591–1]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 02/23/2009 Through 02/27/2009 Pursuant to 40 CFR 1506.9.

EIS No. 20090052, Draft EIS, NRS, IA, Clarke County Water Supply Project, To Construct a Multiple-Purpose Structure that Provides for Rural Water Supply and Water Based Recreational Opportunities, Clarke County, IA, Comment Period Ends: 04/20/2009, Contact: Richard Sim 515–284–6655.

EIS No. 20090053, Final Supplement, COE, MS, Gulfport Harbor Navigation Channel Project, To Evaluate Proposed Construction of Authorized Improvements to the Gulfport Harbor, Harrison County, MS, Wait Period Ends: 04/06/2009, Contact: Jennifer Jacobson 251–690–2724.

EIS No. 20090054, Draft EIS, AFS, NV, Stanislaus National Forest Motorized Travel Management (17305) Plan, Implementation, Stanislaus National Forest, CA, Comment Period Ends: 05/05/2009, Contact: Sue Warren 209–532–3671 Ext. 321.

EIS No. 20090055, Draft EIS, AFS/BLM, CO, Gunnison Basin Federal Lands Travel Management Project, To Address Travel Management on Federal Lands within the Upper Gunnison Basin and North Fork Valley, Implementation, Gunnison, Delta, Hinsdale and Saguache Counties, CO, Comment Period Ends: 06/03/2009, Contact: Gary S. Shellhorn 970–874–6666.

The above EIS is Joint Lead Agencies with the U.S. Department of Interior's Bureau of Land Management.

EIS No. 20090056, Third Draft Supplement, TPT, CA, Presidio Trust Management Plan (PTMP), Updated Information on the Preferred Alternative for the Main Post District of the Presidio of San Francisco,

Implementation, City and County of San Francisco, CA, Comment Period Ends: 04/20/2009, Contact: John Pelka 415–561–4183.

EIS No. 20090057, Draft EIS, AFS, 00, Wallowa-Whitman National Forest Invasive Plants Treatment Project, To Protect Native Vegetation by Controlling, Containing, or Eradicating Invasive Plant, Wallowa, Baker, Malheur and Grant Counties , OR and Adams and Nez Perce Counties, ID , Comment Period Ends: 04/20/2009, Contact: Gene Yates 541–523–1390.

EIS No. 20090058, Draft EIS, AFS, MT, Miller West Fisher Project, Proposes Land Management Activities, including Timber Harvest, Access Management, Road Storage and Decommissioning, Prescribed Burning and Precommercial Thinning, Miller Creek, West Fisher Creek and the Silver Butte Fisher River, Libby Ranger District, Kootenai National Forest, Lincoln County, MT, Comment Period Ends: 04/20/2009, Contact: Leslie McDougall 406–283–7568.

EIS No. 20090059, Final EIS, NOA, 00, PROGRAMMATIC—Marine Mammal Health and Stranding Response Program (MMHSRP), Day-to-Day Operation on Stranding, Response, Rehabilitation, Release, and Disentanglement Activities, Wait Period Ends: 04/06/2009, Contact: David Cottingham 301–713–2322.

Amended Notices

EIS No. 20080389, Second Draft Supplement, AFS, ID, Southwest Idaho Ecogroup Land and Resource Management Plan, Provide Additional Information to Reanalyzes the Effects of Current and Proposed Management on Rock Mountain Bighorn Sheep Viability in the Payette National Forest 2003 FEIS, Boise National Forest, Payette National Forest and Sawtooth National Forest, Forest Plan Revision, Implementation, Several Counties, ID; Malhaur County, OR and Box Elder County, UT, Comment Period Ends: 03/16/2009, Contact: Patricia Soucek 208–634–0812 Revision to FR Notice Published 10/03/2008: Extend the comment from 01/02/2009 to 03/016/2009.

EIS No. 20090048, Draft EIS, AFS, MT, Montanore Project, Proposes to Construct a Copper and Silver Underground Mine and Associated Facilities, Including a New Transmission Line, Plan-of-Operation Permit, Kootenai National Forest, Sanders County, MT, Comment Period Ends: 05/28/2009, Contact: Bobbie Lacklen 406–283–7681.

Revision to FR Notice Published 02/27/2009: Correction to Comment Period from 04/13/2009 to 05/28/2009.

Dated: March 3, 2009.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–4797 Filed 3–5–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Revised Sunshine Notice; FCC To Hold Open Commission Meeting, Thursday, March 5, 2009

March 3, 2009.

The Federal Communications Commission will hold an Open Meeting on Thursday, March 5, 2009, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC. (*See* February 26, 2009 announcement 74 FR 9244, March 3, 2009.)

• The meeting will include presentations and discussion by senior agency officials as well as industry, consumer groups and others involved in the Digital Television Transition.

• Congress has set June 12, 2009 as the final deadline for terminating full-power analog broadcasts. The purpose of the meeting is to educate and inform the Commission and the public about the digital television transition, including the partial transition on February 17, 2009, when some full-power broadcast television stations stopped broadcasting in analog and began broadcasting in digital only.

Agenda and Witness List

9:30 a.m. Opening Statements by Chairman and Commissioners.

9:45 a.m. Overview.

Gary Epstein.

10 a.m. Panel 1: FCC and NTIA Reports on the Events of February 17, 2009 and Future Plans.

Eloise Gore, Associate Bureau Chief, Media Bureau, Federal Communications Commission.

Andrew Martin, Chief Information Officer, Federal Communications Commission.

Cathy Seidel, Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission.

Patrick Webre, Legal Advisor, Consumer and Governmental Affairs Bureau, Federal Communications Commission.

Julius Knapp, Chief, Office of Engineering and Technology, Federal Communications Commission.

Dr. Bernadette McGuire-Rivera, Associate Administrator, Office of Telecommunications and Information Applications, National Telecommunications and Information Administration.

10:45 a.m. Break.

11 a.m. Panel 2: Industry and Consumer Group Reports on the Events of February 17, 2009 and Future Plans.

David Rehr, President and CEO, National Association of Broadcasters.

Kyle McSlarrow, President and CEO, National Cable & Telecommunications Association.

David Donovan, President, MSTV.

Gene Kimmelman, Vice President for Federal and International Affairs, Consumers Union.

Christopher A. McLean, Executive Director, Consumer Electronics Retailers Coalition.

Mark Lloyd, Vice President for Strategic Initiatives, Leadership Conference on Civil Rights and Leadership Conference on Civil Rights Education Fund.

Sandy Markwood, Chief Executive Officer, National Association of Area Agencies on Aging.

11:45 a.m. Closing Statements/Adjournment.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need. Also include a way we can contact you if we need more information. 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*.

Marlene H. Dortch,

Secretary, Federal Communications Commission.

[FR Doc. E9–4888 Filed 3–4–09; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: March 11, 2009–10 a.m.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: A portion of the meeting will be in Open Session and the remainder of the meeting will be in Closed Session.

MATTERS TO BE CONSIDERED:

Open Session

1. Docket No. 02–15 Passenger Vessel Financial Responsibility—Request of Commissioner Brennan.

2. Anderson International Transport and Owen Anderson, *et al.*—Order of Investigation and Hearing—Request for Extension of Time.

3. FY 2008 Federal Human Capital Survey Results—Interpretation of Results & Trends Closed Session.

4. Internal Administrative Practices and Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Secretary, (202) 523–5725.

Karen V. Gregory,

Secretary.

[FR Doc. E9–4949 Filed 3–4–09; 4:15 pm]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10110, CMS–R–250, CMS–R–144/CMS–368 and CMS–668B]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Manufacturer Submission of Average Sales Price (ASP) Data for Medicare Part B Drugs and Biologicals; *Use:* Section 1847A of the Social Security Act requires that the Medicare Part B payment amounts for covered drugs and biologicals not paid on a cost or prospective payment basis be based upon manufacturers' average sales price data submitted to CMS. CMS will utilize the ASP data to determine the Medicare Part B drug payment amounts. *Form Number:* CMS–10110 (OMB# 0938–0921); *Frequency:* Quarterly; *Affected Public:* Business or other for-profits; *Number of Respondents:* 180; *Total Annual Responses:* 720; *Total Annual Hours:* 28,800. (For policy questions regarding this collection contact Catherine Jansto at 410–786–7762. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* MPAF Data and Supporting Regulations in 42 CFR 413.337, 413.343, 424.32 and 483.20; *Use:* Resident assessment information that Skilled Nursing Facilities (SNFs) are required to submit is described under section 42 CFR 413.343 and 483.20. The manner necessary to administer the payment rate methodology is described under section 42 CFR 413.337. An assessment form comprised of a subset of resident assessment information has been developed for use by SNFs to satisfy Medicare payment requirements, in lieu of a full Minimum Data Set. The associated burden is the time the SNF staff is required to complete the Medicare PPS Assessment Form (MPAF), SNF staff time to encode, and SNF staff time spent in transmitting the data. *Form Number:* CMS–R–250 (OMB# 0938–0739); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and not-for-profit institutions, State, Local, or Tribal Governments, and Federal Government; *Number of Respondents:* 15,039; *Total Annual Responses:* 3,834,945; *Total Annual Hours:* 2,704,764. (For policy questions regarding this collection contact Julie Stankivic at 410–786–5725. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* State Medicaid Drug Rebate; *Use:* Section 1927 of the Social Security Act requires each State Medicaid agency to report quarterly prescription drug utilization information to drug manufacturers and to CMS. As part of this information, the State Medicaid agencies are required to report the total Medicaid rebate amount they claim they are owed by each drug manufacturer for each covered prescription drug product each quarter. *Form Number:* CMS–R–144 and CMS–368 (OMB# 0938–0582); *Frequency:* Quarterly; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 204; *Total Annual Hours:* 9,389. (For policy questions regarding this collection contact Dusty Kerhart at 410–786–3273. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Post Clinical Laboratory Survey Questionnaire and Supporting Regulations in 42 CFR 493.1771, 493.1773, and 493.1777; *Use:* This form is used by the State agency to determine a laboratory's compliance with the Clinical Laboratory Improvement Amendments of 1988 (CLIA). This information is needed for a laboratory's CLIA certification and recertification. *Form Number:* CMS–

668B (OMB# 0938–0653); *Frequency:* Biennially; *Affected Public:* Business or other for-profits and not-for-profit institutions. State, Local, or Tribal Government, Federal Government; *Number of Respondents:* 21,000; *Total Annual Responses:* 10,500; *Total Annual Hours:* 2,625. (For policy questions regarding this collection contact Kathleen Todd at 410–786–3385. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *April 6, 2009*.

OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–6974, E-mail: *OIRA_submission@omb.eop.gov*.

Dated: February 27, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–4791 Filed 3–5–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10165]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Electronic Health Records (EHR) Demonstration Web Enabled Application for Phase II; *Use:* The goal of the Electronic Health Record (EHR) demonstration is to foster the implementation and adoption of EHRs and Health Information Technology (HIT) more broadly as effective vehicles improve the quality of care provided and transform the way medicine is practiced and delivered. Adoption of HIT has the potential to provide significant savings to the Medicare program and improve the quality of care rendered to Medicare beneficiaries. This demonstration is designed to leverage the combined forces of private and public payers to drive physician practices to widespread adoption and use of EHRs. The demonstration is being implemented in two phases. Over 800 applications were received, via a manual (paper) process, from interested practices in the four Phase I sites. Because of the greater number of sites and projected applicants for Phase II, CMS has Web enabled the application. This is expected to make it easier for practices to complete the application accurately and completely, submit it in a timely manner, and allow CMS to process the applications more efficiently and effectively. *Form Number:* CMS–10165(OMB#: 0938–0936–0965); *Frequency:* Reporting—Once; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 1,600; *Total Annual Responses:* 1,600; *Total Annual Hours:* 347. (For policy questions regarding this collection contact Jody Blatt at 410–786–6921. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *May 5, 2009*:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By Regular Mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 27, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–4807 Filed 3–5–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0097]

Agency Information Collection Activities; Proposed Collection; Comment Request; Request for Samples and Protocols

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the regulations which state that protocols for samples of biological products must be submitted to the agency.

DATES: Submit written or electronic comments on the collection of information by May 5, 2009.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3794.

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.

Request for Samples and Protocols (OMB Control Number 0910–0206)—Extension

Under section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to issue regulations that prescribe standards designed to ensure the safety, purity, and potency of biological products and to ensure that the biologics licenses for such products are only issued when a product meets the prescribed standards. Under § 610.2 (21 CFR 610.2), the Center for Biologics Evaluation and Research (CBER) or the Center for Drug Evaluation and Research may at any time require manufacturers of licensed biological products to submit to FDA samples of any lot along with the protocols showing the results of applicable tests prior to distributing the lot of the product. In addition to § 610.2, there are other regulations that require the submission of samples and protocols for specific licensed biological products: §§ 660.6 (21 CFR 660.6) (Antibody to Hepatitis B Surface Antigen); 660.36 (21 CFR 660.36) (Reagent Red Blood Cells); and 660.46 (21 CFR 660.46) (Hepatitis B Surface Antigen).

Section 660.6(a) provides requirements for the frequency of submission of samples from each lot of Antibody to Hepatitis B Surface Antigen product, and § 660.6(b) provides the requirements for the submission of a protocol containing specific information along with each required sample. For § 660.6 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by CBER. After official release is no longer required, one sample along with a protocol is required to be submitted at 90-day intervals. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to CBER if continued evaluation is deemed necessary.

Section 660.36(a) requires, after each routine establishment inspection by FDA, the submission of samples from a lot of final Reagent Red Blood Cell product along with a protocol containing specific information. Section 660.36(a)(2) requires that a protocol contain information including, but not limited to, manufacturing records, certain test records, and identity test results. Section 660.36(b) requires a copy of the antigenic constitution matrix specifying the antigens present or absent to be submitted to the CBER Director at the time of initial distribution of each lot.

Section 660.46(a) contains requirements as to the frequency of submission of samples from each lot of Hepatitis B Surface Antigen product, and § 660.46(b) contains the requirements as to the submission of a protocol containing specific information along with each required sample. For § 660.46 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by CBER. After notification of official release is received, one sample along with a protocol is required to be submitted at 90-day intervals. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to CBER if continued evaluation is deemed necessary.

Samples and protocols are required by FDA to help ensure the safety, purity, or potency of a product because of the potential lot-to-lot variability of a product produced from living organisms. In cases of certain biological products (e.g., Albumin, Plasma Protein Fraction, and therapeutic biological products) that are known to have lot-to-lot consistency, official lot release is not normally required. However, submissions of samples and protocols of these products may still be required for surveillance, licensing, and export purposes, or in the event that FDA obtains information that the manufacturing process may not result in consistent quality of the product.

The following burden estimate is for the protocols required to be submitted with each sample. The collection of samples is not a collection of information under 5 CFR 1320.3(h)(2). Respondents to the collection of information under § 610.2 are manufacturers of licensed biological products. Respondents to the collection of information under §§ 660.6(b), 660.36(a)(2) and (b), and 660.46(b) are manufacturers of the specific products referenced previously in this document. The estimated number of respondents for each regulation is based on the annual number of manufacturers that submitted samples and protocols for biological products including submissions for lot release, surveillance, licensing, or export. Based on information obtained from FDA's database system, approximately 69 manufacturers submitted samples and protocols in fiscal year (FY) 2008, under the regulations cited previously in this document. FDA estimates that approximately 65 manufacturers submitted protocols under § 610.2 and 3 manufacturers submitted protocols under the regulations (§§ 660.6 and 660.46) for the other specific products.

FDA received no submissions under § 660.36, however FDA is using the estimate of one protocol submission in the event one is submitted in the future.

The estimated total annual responses are based on FDA's final actions completed in FY 2008, which totaled 6,314, for the various submission requirements of samples and protocols for the licensed biological products. The rate of final actions is not expected to change significantly in the next few years. The hours per response are based on information provided by industry. The burden estimates provided by industry ranged from 1 to 5.5 hours. Under § 610.2, the hours per response are based on the average of these estimates and rounded to 3 hours. Under the remaining regulations, the hours per response are based on the higher end of the estimate (rounded to 5 or 6 hours) since more information is generally required to be submitted in the other protocols than under § 610.2.

FDA estimates the burden of this information collection 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
610.2	65	95.5	6,208	3	18,624
660.6(b)	2	44	88	5	440
660.36(a)(2) and (b)	1	1	1	6	6
660.46(b)	1	17	17	5	85
Total	69		6,314		19,155

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 24, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–4750 Filed 3–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0083]

Agency Information Collection Activities; Proposed Collection; Comment Request; Gluten-Free Labeling of Food Products Experimental Study

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 and to allow 60 days for public comment in response to the notice. This notice solicits comments on a voluntary consumer study entitled ''Gluten-Free Labeling of Food Products Experimental Study.''

DATES: Submit written or electronic comments on the collection of information by May 5, 2009.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3794.

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 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.

Gluten-Free Labeling of Food Products Experimental Study

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), FDA is authorized to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. FDA is planning to conduct an experimental study about gluten-free labeling of food products. The Gluten-Free Labeling of Food Products Experimental Study will collect information from both consumers who have celiac disease or gluten intolerance and those who do not have either condition. The purpose of the study is to gauge perceptions of characteristics related to claims of ''gluten-free'' and allowed variants (e.g., ''free of gluten,'' ''without gluten,'' ''no gluten''), in addition to other types of statements (e.g., ''made in a gluten-free facility'' or ''not made in a facility that processes gluten-containing foods'') on the food label. The study will also

assess consumer understanding of ''gluten-free'' claims on foods that are naturally free of gluten, and gauge consumer reaction to a product carrying a gluten claim concurrently with a statement about the amount of gluten the product contains.

The data will be collected over the Internet from samples derived from two sources: (1) A membership list from a celiac disease special interest organization and (2) an online consumer panel. Participation in the study is voluntary.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Questionnaire	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Screener	6,000	1	6,000	0.0055	33
Pretest	140	1	140	.167	23.38
Experiment	5,000	1	5,000	.167	835
Total					891.38

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Approximately 6,000 respondents will be screened. We estimate that it will take a respondent 20 seconds (0.0055 hours) to complete the screening questions, for a total of 33 hours. A pretest will be conducted with 140 participants; we estimate that it will take a respondent 10 minutes (0.167 hours) to complete the pretest, for a total of 23.38 hours. Five thousand adults will complete the experiment. We estimate that it will take a respondent 10 minutes (0.167 hours) to complete the entire experiment, for a total of 835 hours. Thus, the total estimated burden is 891.38 hours. FDA's burden estimate is based on prior experience with consumer experiments that are similar to this proposed experiment.

Dated: February 23, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–4766 Filed 3–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–E–0105]

Determination of Regulatory Review Period for Purposes of Patent Extension; ARRANON

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ARRANON and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product ARRANON (nelarabine). ARRANON is indicated for the treatment of patients with T-cell acute lymphoblastic leukemia and T-cell lymphoblastic lymphoma whose disease has not responded to or has relapsed following treatment with at least two chemotherapy regimens. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ARRANON (U.S. Patent No. 5,424,295) from,SmithKline Beecham Corp. (DBA GlaxoSmithKline), and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 28, 2008, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of ARRANON represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ARRANON is 4,163 days. Of this time, 3,980 days occurred during the testing phase of the regulatory review period, while 183 days occurred during the

approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: June 7, 1994. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on June 7, 1994.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: April 29, 2005. FDA has verified the applicant's claim that the new drug application (NDA) for Arranon (NDA 21–877) was initially submitted on April 29, 2005.

3. *The date the application was approved*: October 28, 2005. FDA has verified the applicant's claim that NDA 21–877 was approved on October 28, 2005.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by May 5, 2009. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 2, 2009. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 17, 2009.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E9–4770 Filed 3–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, FIRCA and GRIP in Behavioral and Social Sciences.
Date: March 24, 2009.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle Conference Room, Washington, DC 20037.
Contact Person: Manana Sukhareva, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892. 301–435–1116, *sukharem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–08–160: Metabolic Effects Psychotropic Medications.
Date: March 25–26, 2009.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Reed A. Graves, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892. (301) 402–6297, *gravesr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Millennium Promise Awards: Non-communicable Disease.
Date: March 25, 2009.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.
Contact Person: Cathy Wedeen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892. 301–435–1191, *wedeenc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ICBG Review.
Date: March 25–26, 2009.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Dan D. Gerendasy, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5132, MSC 7843, Bethesda, MD 20892. 301–594–6830, *gerendad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tools for Zebrafish Research.
Date: March 27, 2009.
Time: 8 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications, Place: The River Inn, 924 Twenty-Fifth Street, NW. Conference, Washington, DC 20037.
Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7843, Bethesda, MD 20892. 301–435–1034, *ravindrn@csr.nih.gov.*

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Zebrafish Genetic Screens.
Date: March 27, 2009.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 Twenty-Fifth Street, NW. Conference, Washington, DC 20037.
Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7843, Bethesda, MD 20892. 301–435–1034, *ravindrn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Enzyme Specificity Program Project.
Date: April 1–2, 2009.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: David R. Jollie, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892. (301) 435–1722, *jollieda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Epigenomics of Human Health and Disease.
Date: April 2–3, 2009.
Time: 8 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael K. Schmidt, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2214, MSC 7890, Bethesda, MD 20892. (301) 435–1147, *mschmidt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Assays, Detectors, and Devices.

Date: April 2–3, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alexander Gubin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 5144, MSC 7812, Bethesda, MD 20892. 301–435–2902, *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts in Biological Chemistry and Macromolecular Biophysics.

Date: April 2–3, 2009.

Time: 11 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Donald L. Schneider, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7842, Bethesda, MD 20892. (301) 435–1727, *schneidd@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 26, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–4622 Filed 3–5–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2009–0114]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Committee Management; notice of meeting.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees will meet on April 4, 5, and 6, 2009, in Orlando, FL. The meetings will be open to the public.

DATES: NBSAC will meet April 4, 2009, from 8:30 a.m. to 12 noon, and on April 6, 2009, from 8:30 a.m. to 5 p.m. The Boats and Associated Equipment Subcommittee will meet on April 4, and the Prevention through People Subcommittee and the Recreational Boating Safety Strategic Planning Subcommittee will meet on April 5, 2009. Please note that the meetings may conclude early if the council has completed it business.

All written materials, comments, and requests to make oral presentations at the meetings should reach Mr. Jeff Ludwig by March 13, 2009, via one of the methods described in **ADDRESSES**. Requests to have a copy of your material distributed to each member of the committee prior to the meeting should reach Mr. Ludwig by March 13, 2009.

ADDRESSES: The meeting will be held at the Grand Bohemian Hotel,325 S. Orange Ave, Orlando, FL 32801.

Please send written material, comments, and requests to make oral presentations to Mr. Jeff Ludwig by one of the submission methods described below. All materials, comments, and requests must be identified by docket number USCG–2009–0114.

Submission Methods: Please use only one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: jeffrey.a.ludwig@uscg.mil.* Include the docket number in the subject line of the message.
- *Fax:* (202) 372–1932.
- *Mail:* Mr. Jeff Ludwig, COMDT (CG–54221), 2100 2nd Street, SW., Washington, DC 20593.

Instructions: All submissions received must include the words ''U.S. Coast Guard'' and docket number USCG–2009–0114. All submissions received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read background documents or submissions received by the NBSAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, COMDT (CG–54221), 2100 2nd Street, SW., Washington, DC 20593; (202) 372–1061; *Jeffrey.a.ludwig@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). NBSAC was established by the Federal Boat Safety Act of 1971. That law requires the Secretary of Homeland Security, and the Commandant of the Coast Guard by delegation, to consult with NBSAC in prescribing Federal regulations, and on other major matters regarding boating safety. *See* 46 U.S.C. 4302(c) and 13110(c).

NBSAC will meet for the purpose of discussing issues related to recreational boating safety.

A. Tentative Agendas of Meetings

National Boating Safety Advisory Council (NBSAC):

Saturday, April 4, 2009:

(1) Remarks—Mr. James P. Muldoon, NBSAC Chairman;

(2) Chief, Office of Auxiliary and Boating Safety Update on NBSAC Resolutions and Recreational Boating Safety Program report.

(3) Executive Secretary's report.

(4) Chairman's session.

(5) TSAC Liaison's report.

(6) NAVSAC Liaison's report.

(7) National Association of State Boating Law Administrators report.

(8) Boats and Associated Equipment Subcommittee meeting.

Sunday, April 5, 2009:

(9) Prevention through People Subcommittee meeting.

(10) Recreational Boating Safety Strategic Planning Subcommittee meeting.

Monday, April 6, 2009:

(11) Prevention through People Subcommittee report.

(12) Boats and Associated Equipment Subcommittee report.

(13) Recreational Boating Safety Strategic Planning Subcommittee report.

A more detailed agenda can be found at: *http://www.uscgboating.org/nbsac/nbsac.htm,* after March 27, 2009.

B. NBSAC Subcommittees

Prevention Through People Subcommittee: Discuss current regulatory projects, grants, contracts, and new issues affecting the prevention of boating accidents through outreach and education of boaters.

Boats and Associated Equipment Subcommittee: Discuss current regulatory projects, grants, contracts, and new issues affecting boats and associated equipment.

Recreational Boating Safety Strategic Planning Subcommittee: Discuss current status of the strategic planning process and any new issues or factors that could impact, or contribute to, the development of the strategic plan for the recreational boating safety program.

C. Meeting Procedure

This meeting is open to the public. At the discretion of the Chair, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify Mr. Jeff Ludwig as described in the **ADDRESSES** section above. If you would like a copy of your material distributed to each member of the Council in advance of the meeting, please submit thirty (30) of copies to Mr. Jeff Ludwig by March 13, 2009.

Please note that the meeting may conclude early if all business is finished.

D. Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Jeff Ludwig as described in the **ADDRESSES** section above as soon as possible.

Dated: February 27, 2009.

J.A. Watson,

Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

[FR Doc. E9–4810 Filed 3–5–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

National Communications System

[Docket No. NCS–2009–0001]

President's National Security Telecommunications Advisory Committee

AGENCY: National Communications System, DHS.

ACTION: Notice of an open advisory committee meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will be meeting by teleconference; the meeting will be open to the public.

DATES: March 11, 2009, from 2 p.m. until 3 p.m.

ADDRESSES: The meeting will take place by teleconference. For access to the conference bridge and meeting materials, contact Ms. Sue Daage at (703) 235–5526 or by e-mail at *sue.daage@dhs.gov* by 5 p.m. March 6, 2009. If you desire to submit comments regarding the March 11, 2009, meeting they must be submitted by April 1, 2009. This deadline provides additional time for comments in consideration of this notice being provided less than 15 days prior to the meeting. Comments must be identified by NCS–2009–0001 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: NSTAC1@dhs.gov. Include docket number in the subject line of the message.

Mail: Office of the Manager, National Communications System (Customer Service Branch), Department of Homeland Security, 245 Murray Lane, SW., Washington, DC 20598–0615; *Fax:* 1–866–466–5370.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and NCS–2009–0001, 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 by the NSTAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Sue Daage, Customer Service Branch at (703) 235–5526, e-mail: *sue.daage@dhs.gov* or write the Deputy Manager, National Communications System, Department of Homeland Security, 245 Murray Lane, SW., Washington, DC 20598–0615.

SUPPLEMENTARY INFORMATION: In compliance with 41 CFR 102–3.150(b), notice is hereby provided that less than 15 calendar days notice of this meeting is being provided due to exceptional circumstances, namely, that the NSTAC's input on the above issues has been requested by March 12, 2009, in order to inform in a timely manner the President's ongoing review of Federal cybersecurity policy.

NSTAC advises the President on issues and problems related to implementing national security and emergency preparedness telecommunications policy. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463 (1972), as amended appearing in 5 U.S.C. App. 2.

At the upcoming open meeting, the NSTAC Principals will discuss the following four issues:

1. The government's role(s) in securing and protecting the critical infrastructures and private sector networks.

2. The adequacy of related Federal laws, regulations, and policies.

3. Organizational structures needed to support national security and emergency preparedness communications needs in a converged environment.

4. Actions related to the above issues which require immediate attention.

Persons with disabilities who require special assistance should indicate this when arranging access to the teleconference and are encouraged to identify anticipated special needs as early as possible.

Dated: March 2, 2009.

Nicholas E. Andre,

Acting Director, National Communications System.

[FR Doc. E9–4806 Filed 3–5–09; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

National Customs Automation Program Test Concerning Automated Commercial Environment (ACE) Entry Summary, Accounts, and Revenue

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP) will be conducting a National Customs Automation Program (NCAP) test concerning Automated Commercial Environment (ACE) Entry Summary, Accounts, and Revenue (ESAR II) capabilities. These new capabilities will include functionality specific to the filing and processing of formal consumption entries and informal entries. This entry summary processing will include Automated Broker Interface (ABI) Census Warning Overrides and will accommodate the issuance of certain CBP forms through the ACE Portal. Other new functionality will enhance Portal Account Management and allow for ACE Secure Data Portal reporting. This document announces the deployment schedule for this test.

DATES: The test will begin no earlier than March 15, 2009, at each port identified in this notice as part of the first cluster of ports designated for deployment. The test will continue until concluded by way of announcement in the **Federal Register**. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period.

ADDRESSES: Comments concerning this notice should be submitted via e-mail to Janet Pence at *ESARinfoinbox@dhs.gov.* Please indicate ''ESAR II **Federal Register** Notice'' in the subject line of your e-mail.

FOR FURTHER INFORMATION CONTACT: For policy-related questions, please contact Cynthia Whittenburg at *cynthia.whittenburg@dhs.gov.* For technical questions that are non-ABI related, please contact Katrina Marbley at (703) 650–3285. For technical questions related to ABI transmissions, please contact your assigned client representative. Parties without an assigned client representative should direct their questions to the Client Representative Branch at (703) 650–3500.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2008, CBP published a General Notice in the **Federal Register** (73 FR 50337) announcing the agency's plan to conduct a new test concerning ACE Entry Summary, Accounts, and Revenue (ESAR II) capabilities that will provide new Portal and Electronic Data Interchange (EDI) capabilities specific to Entry Summary filing and processing of consumption and informal entries. The notice stated that functionality will include ABI Census Warning Overrides and issuance of CBP requests for information and notices of action through the ACE Portal, and that new functionality will enhance Portal Account Management and allow for ACE Secure Data Portal reporting. The notice indicated that this release of ESAR II initially will be limited only to formal entries, commonly referred to in the Automated Commercial System (ACS) as type 01 entries, and informal entries, commonly referred to in ACS as type 11 entries. The notice listed the ports where the test was expected to be deployed and requested that interested ABI participants wishing to submit type 01 and 11 entries for this test provide to CBP, within 60 days of the date of publication of the notice, the number of expected ACE entry summaries that will be submitted to the listed ports.

Importer and broker volunteers wishing to benefit from Portal functionality available in this test were also advised that they must have an ACE Portal Account. ABI volunteers wishing to participate in this test were advised that they must have the ability to:

- File entries on a statement, *i.e.*, no non-statement; single pay entry summaries will be allowed; and
- Use a software package that has completed ABI certification testing for ACE.

Changes to the Test

The August 26, 2008, notice indicated that participating importer, broker, and carrier Portal Account types will be able to maintain certain declarations in the ACE Secure Data Portal. The notice stated that declarations that will be supported via the Portal would include: Affidavits of manufacturers; North American Free Trade Agreement (NAFTA) Certificates of Origin; Non-Reimbursement Blanket Statements (Anti-Dumping/Countervailing Duty (AD/CVD)); certain marking rulings; and importer certifying statements. CBP is announcing in this notice that the ACE Portal will not be supporting ''certain marking rulings.'' All other declarations will be supported as noted in the August notice.

Additionally, CBP is announcing in this notice that, although this ESAR II test will support type 01 and 11 entry types filed through remote location filing, this will not be available on the first day of the test. CBP will support remote location filing at some point following the ''go live'' date of the test. CBP will issue a message to the trade via the ''Cargo Systems Message System'' alerting the trade that they may begin filing type 01 and 11 entries remotely.

Implementation of the Test

CBP received comments from 39 interested ABI participants in response to the August 26, 2008, notice. ABI respondents provided a breakdown of the anticipated type 01 and 11 ACE entry summaries to be submitted to the ports listed in the August 26, 2008, notice. All 39 ABI filers will receive e-mail notifications confirming their acceptance into the test.

Additionally, 17 software developers contacted their client representative with regard to their interest in ABI certification testing for ACE. All 17 software developers will be contacted by their client representative and will be advised as to the start of certification testing.

For purposes of this test, the system of origin (ACS or ACE) will determine the system of record for that entry summary. For example, if the entry summary is submitted in ACS, the system of record for that entry summary will be ACS. If the entry summary is submitted in ACE, the system of record for that entry summary will be ACE.

Based on the feedback received by CBP to the August 26, 2008, notice, CBP has determined that it will conduct the ESAR II test in a phased approach as set forth below.

I. Initial Stage—No Earlier Than March 15, 2009

At the initial stage of the test, transmission of ACE entry summaries will be limited to the following ports:

- Buffalo, New York;
- Chicago, Illinois;
- Long Beach, California; and
- Laredo, Texas.

Any of the 39 respondents who anticipate transmitting type 01 and 11 entries at the above indicated ports should do so no earlier than March 15, 2009.

For purposes of clarification, the port of Long Beach, California includes Long Beach (port code 2709) and Los Angeles (port code 2704), but does not include the Los Angeles Airport (port code 2720).

II. Second Stage—No Earlier Than April 15, 2009

During the second stage of the test, transmission of ACE entry summaries will be expanded to the following ports:

- Miami, Florida;
- New Orleans, Louisiana;
- Houston, Texas;
- San Francisco, California;
- Seattle, Washington;
- El Paso, Texas;
- Boston, Massachusetts;
- San Diego, California;
- Newark, New Jersey;
- J.F.K. Airport, New York;
- Baltimore, Maryland;
- Philadelphia, Pennsylvania;
- Cleveland, Ohio;
- Tucson, Arizona;
- Tampa, Florida;
- Detroit, Michigan; and
- Atlanta, Georgia.

Any of the 39 respondents who anticipate transmitting type 01 and 11 entries at the above indicated ports should do so no earlier than April 15, 2009.

III. Third Stage—No Earlier Than June 15, 2009

During the third and final stage of the test, transmission of ACE entry summaries will be expanded nationwide to all remaining ports.

Expansion of Participation

At this time, CBP would also like to invite any additional interested ABI applicants meeting the eligibility criteria specified in the August 26, 2008, notice to participate in the ESAR II test. Eligible ABI trade volunteers interested in submitting type 01 and 11 entries for this test to the ports identified above should contact their assigned client representative directly. Interested parties without an assigned client representative should contact the Client Representative Branch at (703) 650–3500. Filers will receive an e-mail notification confirming their acceptance into the test.

Interested software developers should similarly contact their client

representative with regard to their interest in ABI certification testing for ACE. All software developers will be contacted by their client representative and will be advised as to the start of certification testing.

Acceptance into this test does not guarantee eligibility for, or acceptance into, future technical tests. Participation in the ESAR II test will be expanded in the future as funding allows; however, the eligibility criteria may differ from the criteria listed in this and the August 26, 2008, notice. Additionally, expansion of this test to allow participation by future applicants may be delayed due to funding or technological constraints.

As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act request, a name(s) of an approved participant(s) will be disclosed by CBP in accordance with 5 U.S.C. 552. If necessary, CBP will reserve the right to limit the number of participants and locations during the initial stages of the test.

Previous Notices

All requirements and aspects of the ESAR II test discussed in the August 26, 2008, notice as well as in any other previous notices, except to the extent expressly modified by this notice, are hereby incorporated by reference and continue to be applicable.

Dated: March 3, 2009.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. E9–4844 Filed 3–5–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–08]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

Effective Date: March 6, 2009.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: February 26, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–4530 Filed 3–5–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2009–N0052; 80221–1113–0000–F5]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing these permits.

DATES: Comments on these permit applications must be received on or before April 6, 2009.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Endangered Species Program Manager, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist, see **ADDRESSES**, (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). The U.S. Fish and Wildlife Service (''we'') solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit No. TE–205600

Applicant: Bonnie E. Peterson, Sacramento, California.

The applicant requests a permit to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–797267

Applicant: H. T. Harvey and Associates, Los Gatos, California.

The applicant requests an amendment to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–804203

Applicant: Stephen J. Meyers, Victorville California.

The applicant requests an amendment to take (capture, handle, and band) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with monitoring and other life history studies throughout the range of each species in California for the purpose of enhancing its survival.

Permit No. TE–205609

Applicant: Lawrence P. Kobernus, San Francisco, California.

The applicant requests a permit to take (survey by pursuit, capture, handle and release) the callippe silverspot butterfly (*Speyeria callippe callippe*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–095860

Applicant: Veronica A. Wunderlich, Pleasant Hill, California.

The permittee requests an amendment to take (harass by survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with surveys throughout the range of the species in California, for the purpose of enhancing its survival.

Permit No. TE–205904

Applicant: Patrick F. Golden, Denver, Colorado.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax trailli extimus*) in conjunction with surveys throughout the range of the species in California and Nevada for the purpose of enhancing its survival.

Permit No. TE–206822

Applicant: Brian Shomo, Lake Elsinore, California.

The applicant requests a permit to take (capture, handle, mark, and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with surveys and population monitoring throughout the range of the species in Riverside County, California for the purpose of enhancing its survival.

Permit No. TE–206831

Applicant: Michael Nichols, Washington, DC.

The applicant requests a permit to take (install, activate, and photograph with remote camera), the marbled murrelet (*Brachyramphus marmoratus*) in conjunction with commercial filming for National Geographic Magazine at Redwood National Park, Humboldt County, California for the purpose of enhancing its survival.

Permit No. TE–028605

Applicant: SWCA Environmental Consultants, Flagstaff, Arizona.

The applicant requests an amendment to take (install, activate, and photograph with micro video camera) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with predation control and population monitoring in Nevada for the purpose of enhancing its survival.

Permit No. TE–207873

Applicant: Carol Thompson, Ontario, California.

The applicant requests a permit to take (survey, locate, and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*); take (capture, handle, and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) and San Bernardino kangaroo rat (*Dipodomys merriami parvus*); and take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–181714

Applicant: Pieter TJ Johnson, Boulder, Colorado.

The permittee requests an amendment to take (harass by survey, capture, handle, biological sample, and release,) the California tiger salamander (*Ambystoma californiense*) in conjunction with research throughout the range of the species in California, for the purpose of enhancing its survival.

Permit No. TE–144965

Applicant: Williams Wildland Consulting, Marysville, California.

The applicant requests an amendment to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–207867

Applicant: Michael A. Richard, Orange, California.

The applicant requests a permit to take (capture, handle, mark, and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with surveys and population monitoring in Riverside County, California for the purpose of enhancing their survival.

Permit No. TE–134338

Applicant: Brenna A. Ogg, San Diego, California.

The applicant requests an amendment to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species in California for the purpose of enhancing their survival.

We solicit public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Dated: February 26, 2009.

Michael Fris,

Regional Director, Region 8, Sacramento, California.

[FR Doc. E9–4647 Filed 3–5–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–8101–08; AK–964–1410–KC-P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the subsurface estate in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to The Aleut Corporation. The lands are in the vicinity of Umnak Island, Alaska, and are located in:

Seward Meridian, Alaska

T. 78 S., R. 131 W.,
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 35 and 36.

Containing approximately 8,960 acres.

T. 79 S., R. 131 W.,
Secs. 1 to 4, inclusive;
Secs. 11 and 12.

Containing approximately 3,840 acres.

Aggregating approximately 12,800 acres.

Notice of the decision will also be published four times in The Dutch Harbor Fisherman.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 6, 2009 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I.

[FR Doc. E9–4763 Filed 3–5–09; 8:45 am]

BILLING CODE 4310–JA–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1022 (Review)]

Refined Brown Aluminum Oxide From China; Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on refined brown aluminum oxide from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on October 1, 2008 (73 FR 57149) and determined on January 5, 2009 that it would conduct an expedited review (74 FR 1706, January 13, 2009).

The Commission transmitted its determination in this review to the Secretary of Commerce on March 2, 2009. The views of the Commission are contained in USITC Publication 4063 (March 2009), entitled *Refined Brown Aluminum Oxide from China: Investigation No. 731–TA–1022 (Review).*

Issued: March 2, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–4790 Filed 3–5–09; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in section 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP) Docket No. 1494]

Meeting of the Department of Justice's (DOJ's) Global Justice Information Sharing Initiative Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of DOJ's Global Justice Information Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *http://www.it.ojp.gov/global.*

DATES: The meeting will take place on Thursday, April 23, 2009, from 8:30 a.m. to 4 p.m. ET.

ADDRESSES: The meeting will take place at the Westin Tyson's Corner Hotel, 7801 Leesburg Pike, Falls Church, VA 22043; Phone: (703) 893–1340.

FOR FURTHER INFORMATION CONTACT: J. Patrick McCreary, Global Designated Federal Employee (DFE), Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, NW., Washington, DC 20531; Phone: (202) 616–0532 [**Note:** This is not a toll-free number]; E-mail: *James.P.McCreary@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with Mr. J. Patrick McCreary at the above address at least seven (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFE.

Anyone requiring special accommodations should notify Mr. McCreary at least seven (7) days in advance of the meeting.

Purpose

The GAC will act as the focal point for justice information systems integration activities in order to facilitate the coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President (through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also advocate for strategies for accomplishing a Global information sharing capability.

J. Patrick McCreary,

Global DFE, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. E9–4776 Filed 3–5–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

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 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 requirements on respondents can be properly assessed. The Bureau of Labor

Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the ''Veterans Supplement to the Current Population Survey (CPS),'' to be conducted in August 2009. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before May 5, 2009.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The CPS has been the principal source of the official Government statistics on employment and unemployment since 1940 (69 years). Collection of labor force data through the CPS is necessary to meet the requirements in Title 29, United States Code, Sections 1 and 2. The Veterans Supplement provides information on the labor force status of veterans with a service-connected disability, combat veterans, past or present National Guard and Reserve members, and recently discharged veterans. Data are provided by period of service and a range of demographic characteristics. The supplement also provides information on veterans' participation in various transition and employment and training programs. The data collected through this supplement will be used by the Veterans Employment and Training Service and the Department of Veterans Affairs to determine policies that better meet the needs of our Nation's veteran population.

II. Current Action

Office of Management and Budget clearance is being sought for the Veterans Supplement to the CPS. A reinstatement of this previously approved collection for which approval has expired is needed to provide the Nation with timely information about the labor force status of veterans with a service-connected disability, combat veterans, past or present National Guard and Reserve members, and recently discharged veterans.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: Veterans Supplement to the CPS.

OMB Number: 1220–0102.

Affected Public: Households.

Total Respondents: 12,000.

Frequency: Biennially.

Total Responses: 12,000.

Average Time Per Response: Approximately 2 minutes.

Estimated Total Burden Hours: 400 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

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 also will become a matter of public record.

Signed at Washington, DC, this 2nd day of March 2009.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E9–4759 Filed 3–5–09; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notification of Methane Detected in Mine Atmosphere

ACTION: Notice.

SUMMARY: The Department of Labor, 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 requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Sections 57.22004(c), 57.22229, 5722230, 5722231, and 57.22239; Methane Detected in Mine Atmosphere.

DATES: Submit comments on or before May 5, 2009.

ADDRESSES: Send comments to, Debbie Ferraro, Management Services Division, 1100 Wilson Blvd., Room 2141, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on computer disk, or via E-mail to *Ferraro.Debbie@DOL.GOV*. Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile). Because of potential delays in receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 103(c), (I), and (j) of the Federal Mine Safety and Health Act of 1977 authorizes the inspection, recordkeeping and reporting requirements implemented in 30 CFR part 57, Subpart T-Safety Standards for Methane in Metal and Nonmetal mines.

Methane is a flammable gas found in underground mining. Methane is a colorless, odorless, tasteless gas, and it tens to rise to the roof of a mine because it is lighter than air. Although methane itself is nontoxic, its presence reduces oxygen content by dilution when mixed with air, and consequently can act as an asphyxiant when present in large quantities. Methane mixed with air is explosive in the range of 5 to 15 percent, provided that 12 percent or more oxygen is present. The presence of dust containing volatile matter in the mine atmosphere may further enhance the explosion potential of methane in a mine.

Metal and Nonmetal mine operators are required to notify MSHA as soon as possible if any of the following events occur: (a) There is an outburst that results in 0.25 percent or more methane in the mine atmosphere; (b) there is a blowout that results in 0.25 percent or more methane in the mine atmosphere; (c) there is an ignition of methane; (d) air sample results indicate 0.25 percent or more methane in the mine atmosphere of a Subcategory I–B, I–C, II–B, V–B, or Category VI mine. If methane reaches 2.0 percent in a Category IV mine; or methane reaches 0.25 percent in the mine atmosphere of a Subcategory I–B, II–B, V–B, and VI mines, MSHA shall be notified immediately. MSHA investigates these occurrences to determine that the mine is placed in the proper category.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov/*) and selecting ''Rules & Regs'', and then selecting ''FedReg. Docs''. On the next screen, select ''Paperwork Reduction Act Supporting Statement'' to view documents supporting the **Federal Register** Notice.

Current Actions

MSHA is seeking an extension of the information collection related to certification and notification of methane detected in mine atmosphere.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Methane Detected in Mine Atmosphere.

OMB Number: 1219–0103.

Recordkeeping: Certification of examinations shall be kept for at least one year.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Respondents: 8.

Responses: 416.

Total Burden Hours: 36 hours.

Total Burden Cost (operating/maintaining): $0.

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 3rd day of March, 2009.

John Rowlett,

Director, Management Services Division.

[FR Doc. E9–4787 Filed 3–5–09; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

National Industrial Security Program Policy Advisory Committee (NISPPAC); Notice of Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulation 41 CFR part 101–6, announcement is made for the following committee meeting:

Name of Committee: National Industrial Security Program Policy Advisory Committee (NISPPAC).

Date of Meeting: April 7, 2009.

Time of Meeting: 1 p.m.–3 p.m.

Place of Meeting: National Archives and Records Administration, 700 Pennsylvania Avenue, NW., Archivist's Reception Room, Room 105, Washington, DC 20408.

Purpose: To discuss National Industrial Security Program policy matters.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than Tuesday, March 31, 2009. ISOO will provide additional instructions for gaining access to the location of the meeting.

FOR FURTHER INFORMATION CONTACT: Nathaniel C. Nelson, Program Analyst, Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, NW., Washington, DC 20408, telephone number (202) 357–5212.

Dated: March 3, 2009.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E9–4892 Filed 3–5–09; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2009–0041]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 55, Operators' Licenses.

2. *Current OMB approval number:* 3150–0018.

3. *How often the collection is required:* As necessary for NRC to meet its responsibilities to determine the eligibility of applicants for operators' licenses, prepare or review applications for and performance of simulation facilities.

4. *Who is required or asked to report:* Holders of and applicants for facility (*i.e.*, nuclear power, research and test reactor) operating licenses and individual operators' licenses.

5. *The number of annual respondents:* 243.

6. *The number of hours needed annually to complete the requirement or request:* 92,008.

7. *Abstract:* 10 CFR part 55, ''Operators' Licenses,'' of the NRC's regulations, specifies information and data to be provided by applicants and facility licenses so that the NRC may make determinations concerning the licensing and requalification of operators for nuclear reactors, as necessary to promote public health and safety. The reporting and recordkeeping requirements contained in 10 CFR part 55 are mandatory for the licensees and applicants affected.

Submit, by May 5, 2009, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2009–0041. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2009–0041. Mail comments to NRC Clearance Officer, Gregory Trussell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Gregory Trussell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6874, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 24th day of February, 2009.

For the Nuclear Regulatory Commission.

Gregory Trussell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E9–4762 Filed 3–5–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–32023; License No. 42–27055–01; EA–08–261; NRC–2009–0101]

In the Matter of Schlumberger Technology Corporation, Sugar Land, TX; Confirmatory Order Modifying License; Effective Immediately

I

Schlumberger Technology Corporation (Schlumberger or Licensee) is the holder of Materials License No. 42–27055–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on November 29, 1989, last amended on May 1, 2006, and due to expire on December 31, 2015. The license authorizes Schlumberger to possess and use sealed sources for use in conducting density measurements in accordance with conditions specified therein. The license authorizes use at specified field stations located in the States of Alaska, Virginia, West Virginia, and Wyoming. The license also authorizes use at temporary job sites of the licensee anywhere in the United States where the Commission maintains jurisdiction for regulating the use of licensed material.

II

In accordance with NRC protocols, on October 4, 2007, Schlumberger timely reported the loss of a fluid density gauge containing licensed material from its Rock Springs, Wyoming, facility. After identifying and reporting the missing gauge, Schlumberger took extensive actions in an attempt to find the gauge and conducted a thorough investigation into the circumstances surrounding the lost gauge. The gauge was not located. Schlumberger timely filed its written report pursuant to 10 CFR 20.2201 on November 15, 2007.

On January 29, 2008, the NRC conducted an inspection to review the circumstances related to Schlumberger's October 4, 2007, report of a lost fluid density gauge containing licensed material. Following that, on March 3, 2008, the NRC Office of Investigations (OI) began an investigation (OI Case No. 4–2008–031) of Schlumberger Technology Corporation. The investigation was conducted, in part, to determine if a Radiation Safety Officer (RSO) employed by Schlumberger at the Rock Springs, Wyoming, field station willfully falsified inventory documents. Based on the results of the inspection and investigation, the NRC determined that two apparent violations of NRC requirements occurred. The apparent violations involved failures to maintain required records complete and accurate as required by 10 CFR 30.9, and to maintain control over licensed material as required by 10 CFR 20.1802. The NRC also was concerned that the apparent failure to maintain required records complete and accurate as required by 10 CFR 30.9 might have resulted from deliberate misconduct on the part of the RSO at Schlumberger's Rock Springs, Wyoming, field station.

By letter dated December 1, 2008, the NRC transmitted the results of the inspection and investigation to Schlumberger Technology Corporation. In the December 1, 2008, letter, the NRC offered Schlumberger the opportunity to respond to the apparent violations, request a predecisional enforcement conference, or request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve issues associated with this matter. In response, on December 5, 2008, Schlumberger requested ADR to resolve this matter with the NRC.

On January 22, 2009, the NRC and Schlumberger Technology Corporation met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process.

III

The January 22, 2009, ADR session between the NRC and Schlumberger was held in Arlington, Texas, in the NRC Region IV offices. During that ADR session, an Agreement in Principle was reached. The elements of the agreement consisted of the following:

1. The NRC acknowledges that Schlumberger identified a missing gauge and reported it to the NRC, and in addition, the NRC acknowledges that Schlumberger took extensive actions in an attempt to find the gauge and conducted a thorough investigation into the circumstances surrounding the lost gauge. However, the gauge was not found.

2. Within 180 days of the date of this order, Schlumberger will develop and implement a program that requires well site supervisors to ensure licensed material is accounted for and secured at temporary job sites.

3. Within 180 days of the date of this order, Schlumberger will develop and implement a program that requires line managers to review security and accountability of licensed material assigned to their operating locations (base and temporary job sites).

4. Schlumberger's corporate radiation safety staff will conduct annual radiation safety audits at the Rock Springs, Wyoming, field station through calendar year 2010. This shall include audits of temporary job sites that will include, but not be limited to, compliance with security and transportation regulations associated with licensed radioactive material.

5. Within 180 days of the date of this order, Schlumberger will develop and implement a required annual training program that describes the requirements in 10 CFR 30.9 and 10 CFR 30.10 to employees using licensed material. This training is to include the potential consequences individuals may experience for violations of 10 CFR 30.10. This training will be included in Schlumberger's initial training program.

6. Within 90 days of the date of this order, Schlumberger will submit a license amendment request, for Materials License No. 42–27055–01, to incorporate the changes to its inventory procedure, to include the photographic inventory process.

7. The NRC agrees not to pursue any further enforcement action against Schlumberger in connection with the NRC's December 1, 2008, Inspection Report 030–32023/08–001 issued to Schlumberger and will not count this matter as previous enforcement for the purposes of assessing potential future enforcement action civil penalty assessments in accordance with Section VI.C of the Enforcement Policy. The NRC, however, will evaluate Schlumberger's compliance with this confirmatory order; and consider enforcement action for any violations identified, as appropriate.

8. In consideration of the extensive actions taken and the additional actions to be taken by Schlumberger, the NRC will issue a civil monetary penalty only in the base amount of $3250. Schlumberger will pay the civil penalty within 30 days of the effective date of this order.

9. The NRC acknowledges the extensive actions taken by Schlumberger, which include:

- In 2005, Schlumberger started a program entitled, ''U.S. Compliance Audits,'' to conduct audits every 3 years of each field station by a corporate team of experts. These audits include temporary job sites.
- Schlumberger's local site personnel conduct annual self-assessments of various programs, including the radiation safety program.
- There is a pre-existing Schlumberger code of ethics which includes a tiered approach on discipline. Management involvement is included in the process. Employees are given mechanisms to identify and report perceived non-conformances.
- Photographic inventories of licensed material are conducted at least annually. Schlumberger's business system generates a random, 6-digit number on a monthly basis that must be in the photograph to ensure the inventory occurs in a given month.
- Confirmation inventories of licensed radioactive material are conducted every 3 months.
- Third-party leak test analysis results are provided to the corporate radiation safety office for review.
- Training has been provided to Schlumberger's U.S. employees, who work with licensed materials, on the legal ramifications of willful failures to follow NRC regulations.
- Training has been provided to Schlumberger's Rock Springs, Wyoming, personnel on security for transport and shipping requirements. This training was conducted in December 2007 and January 2008.
- Training has been provided to Schlumberger's U.S. employees on radiation safety and control of licensed material. This training was conducted during the first quarter of 2008.
- World-wide training on security and control of gauges and inventory controls (photographic inventory) was conducted.
- A Quality Health Safety and Environment alert was issued within the company describing the circumstances surrounding the event related to Schlumberger's October 4, 2007, report of a lost fluid density gauge, and discussing the importance of the security of licensed material. This alert went out to site management located in the United States and Canada.
- Procedural changes were made on how and where licensed materials are stored at Schlumberger's Rock Springs, Wyoming, field station. An enhanced security system is now in place at Rock Springs, Wyoming.

It was noted in the agreement that the NRC concluded that two violations of NRC requirements occurred. The violations involved: (1) A failure to maintain control over licensed material occurred, which constitutes a violation of 10 CFR 20.1802, and (2) a site RSO at Schlumberger's field station located at Rock Springs, Wyoming, deliberately failed to provide complete and accurate information on the records documenting physical inventories, which constitutes a violation of 10 CFR 30.9. The NRC acknowledges that Schlumberger does not concede that any violations occurred.

On February 23, 2009, the Licensee consented to issuing this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 20 and 30 *it is hereby ordered,* effective immediately, that License No. 42–27055–01 is modified as follows:

1. Within 180 days of the effective date of this order, Schlumberger will develop and implement a program that requires well site supervisors to ensure licensed material is accounted for and secured at temporary job sites.

2. Within 180 days of the effective date of this order, Schlumberger will develop and implement a program that requires line managers to review security and accountability of licensed

material assigned to their operating locations (base and temporary job sites).

3. Schlumberger's corporate radiation safety staff will conduct annual radiation safety audits at the Rock Springs, Wyoming, field station through calendar year 2010. This shall include audits of temporary job sites that will include, but not be limited to, compliance with security and transportation regulations associated with licensed radioactive material.

4. Within 180 days of the effective date of this order, Schlumberger will develop and implement a required annual training program that describes the requirements in 10 CFR 30.9 and 10 CFR 30.10 to employees using licensed material. This training is to include the potential consequences individuals may experience for violations of 10 CFR 30.10. This training will be included in Schlumberger's initial training program.

5. Within 90 days of the effective date of this order, Schlumberger will submit a license amendment request, for Materials License No. 42–27055–01, to incorporate the changes to its inventory procedure, to include the photographic inventory process.

6. Within 30 days of the effective date of this order, Schlumberger Technology Corporation must pay the civil penalty of $3,250 in accordance with NUREG/BR–0254 and submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, a statement indicating when and by what method payment was made.

7. Schlumberger shall continue the following actions:

- ''U.S. Compliance Audits'' shall be conducted every 3 years at each field station by a corporate team of experts. These audits will include temporary job sites.
- Annual self-assessments shall be conducted by site personnel. These self-assessments include the radiation safety program.
- Schlumberger will maintain its pre-existing code of ethics, which includes a tiered approach on discipline.
- Confirmation inventories of licensed radioactive material shall be conducted every 3 months.
- Third-party leak test analysis results shall be provided to the corporate radiation safety office for review.
- The enhanced security system shall remain in place at Schlumberger's Rock Springs, Wyoming, field station, provided that licensed material is used or stored therein.

The license, which is the subject of this order, is modified in accordance with the requirements of the order. As such, in the event of the transfer of Materials License No. 42–27055–01 held by Schlumberger Technology Corporation, by the virtue of the sale (of the facility or the license holder), merger, bankruptcy, agreement or otherwise, the requirements of this confirmatory order shall survive any such transfer and shall be binding on the new license holder.

The Regional Administrator, NRC Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical 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 associated with E-Filing, at least five (5) days prior to the filing deadline the 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 NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each 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 also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. 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 document through EIE. To be timely, electronic filings 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 document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may 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 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.

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 works.

If a person other than Schlumberger Technology Corporation requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 24th day of February 2009.

For the Nuclear Regulatory Commission.

Elmo E. Collins,

Regional Administrator.

[FR Doc. E9–4761 Filed 3–5–09; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28639]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

February 27, 2009.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of February, 2009. A copy of each application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549–1520 (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 24, 2009, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Short-Term Investments Trust II

[File No. 811–22259]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 8, 2008, applicant transferred its assets to a corresponding series of Short-Term Investments Trust, based on net asset value. Expenses of approximately $164,210 incurred in connection with the reorganization were paid by Invesco Aim Advisors, Inc., applicant's investment adviser.

Filing Dates: The application was filed on December 9, 2008, and amended on February 11, 2009.

Applicant's Address: 11 Greenway Plaza, Suite 100, Houston, TX 77046–1173.

Putnam New York Investment Grade Municipal Trust

[File No. 811–7274]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant's Municipal Income Preferred Shares, Series Th were redeemed on May 25, 2007. On June 25, 2007, applicant transferred its assets to Putnam New York Tax Exempt Income Trust, based on net asset value. Expenses of approximately $276,806 incurred in connection with the reorganization were paid by applicant.

Filing Dates: The application was filed on December 23, 2008 and amended on February 10, 2009.

Applicant's Address: One Post Office Sq., Boston, MA 02109.

Dollar Strategy Global Trust

[File No. 811–22122]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 24, 2008, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $1,250 incurred in connection with the liquidation were paid by Glengarry Advisors, LP, applicant's investment adviser.

Filing Dates: The application was filed on December 23, 2008 and amended on February 6, 2009.

Applicant's Address: 81790 Golden Star Way, La Quinta, CA 92253.

Fortress Brookdale Investment Fund LLC

[File No. 811–10127]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 28, 2008, applicant made a liquidating distribution to its shareholders, based on net asset value. Preferred shareholders received cash payments equal to the face amount of their securities plus preferred dividends accrued. Expenses of $6,000 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on December 10, 2008 and amended on February 2, 2009.

Applicant's Address: 1345 Avenue of the Americas, 46th Floor, New York, NY 10105.

Diamond Portfolio Investment Trust

[File No. 811–22129]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 29,

2008, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $14,000 incurred in connection with the liquidation were paid by Diamond Portfolio Advisors, LLC, applicant's investment adviser.

Filing Date: The application was filed on December 31, 2008.

Applicant's Address: 8730 Stony Point Parkway, Suite 205, Richmond, VA 23235.

Salomon Brothers Unit Investment Trust Insured Tax Exempt Series

[File No. 811–4203]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On July 18, 1996, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Shearson Lehman Bros Unit Trusts High Yield Taxable Series 1

[File No. 811–5070]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On December 20, 1999, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Tax Exempt Trust Medium Term Series 1

[File No. 811–3863]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On December 8, 1989, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Harris Upham Tax Exempt Bond Fund First Series

[File No. 811–2403]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On August 3, 1998, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Shearson Lehman Brothers Unit Trust Ret Portfolios Series 1

[File No. 811–5129]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On January 24, 1994, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

F&M Tax Exempt Bond Fund First Series

[File No. 811–2343]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On July 15, 1995, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Oppenheimer Tremont Market Neutral Fund, LLC

[File No. 811–10537]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On March 31, 2008, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on February 3, 2009.

Applicant's Address: 6803 S. Tucson Way, Centennial, CO 80112.

Keystone Capital Preservation & Income Fund

[File No. 811–6278]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to a corresponding series of Evergreen Fixed Income Trust, based on net asset value. Applicant paid the expenses incurred in connection with the reorganization.

Filing Date: The application was filed on February 12, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Evergreen Tax Free Trust

[File No. 811–4507]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about January 12, 1998, Evergreen Pennsylvania Tax-Free Money Market Fund, a series of applicant, transferred its assets to a corresponding series of Evergreen Money Market Trust, based on net asset value. On January 20, 1998, Evergreen New Jersey Tax-Free Income Fund, applicant's final series, transferred its assets to a corresponding series of Evergreen Municipal Trust, based on net asset value. Expenses incurred in connection with the reorganizations were paid by applicant.

Filing Date: The application was filed on February 12, 2008.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Hutton E F Corporate Income Fund First Series

[File No. 811–2588]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On February 1, 1996, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Hutton E F Trust For Government Guaranteed Securities

[File No. 811–2820]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On June 19, 1998, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Pennsylvania Fund Tax Exempt Municipal Investment Trust

[File No. 811–2326]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On December 15, 1997, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Northwest Tax Exempt Bond Fund Second & Subsequent Series

[File No. 811–2442]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On July 17, 1995, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Michigan Fund Tax Exempt Municipal Investment Trust

[File No. 811–2304]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On February 29, 1996, applicant made a liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 23, 2009.

Applicant's Address: 388 Greenwich St., New York, NY 10013.

Domini Advisor Trust

[File No. 811–21653]

Summary: Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On November 28, 2008, each of applicant's four series transferred its assets to a corresponding series of Domini Social Investment Trust, based on net asset value. Expenses of $159,972 incurred in connection with the reorganization were paid by Domini Social Investments LLC, applicant's investment adviser.

Filing Date: The application was filed on February 13, 2009.

Applicant's Address: 536 Broadway, 7th Floor, New York, NY 10012.

Domini Institutional Trust

[File No. 811–7599]

Summary: Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On November 28, 2008, applicant transferred its assets to a corresponding series of Domini Social Investment Trust, based on net asset value. Expenses of $159,972 incurred in connection with the reorganization were paid by Domini Social Investments LLC, investment adviser to applicant's master fund, a series of Domini Social Trust.

Filing Date: The application was filed on February 13, 2009.

Applicant's Address: 536 Broadway, 7th Floor, New York, NY 10012.

TH Lee, Putnam Investment Trust

[File No. 811–10373]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On June 24, 2008, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $113,264 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on February 18, 2009.

Applicant's Address: One Post Office Sq., Boston, MA 02109.

Old Mutual Insurance Series Fund

[File No. 811–8009]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The Board of Directors approved the liquidation of the Applicant, an open-end management company, on August 22, 2008. Shareholder approval of the liquidation was not required. Applicant distributed all its assets to shareholders on December 15, 2008, except that certain assets which were not reduced to cash, including rights to amounts received in certain securities class action litigation, were transferred to a liquidating trust and the interests in the liquidating trust were distributed to shareholders. Total expenses of the liquidation are $240,580.50, of which $130,000 associated with the establishment and maintenance of the aforementioned liquidating trust is the obligation of Applicant's investment adviser, Old Mutual Capital, Inc. (subject to reimbursement from the proceeds of distribution from class action settlement or tax reclaims received by the liquidating trust). The balance of $110,580.50, including legal expenses of $44,080.50, was paid by Applicant prior to the liquidation (either directly or through the establishment of a reserve account maintained by Applicant's custodian, The Bank of New York, Mellon).

Filing Dates: The application was filed on December 24, 2008, and amended on February 23, 2009.

Applicant's Address: 4643 South Ulster Street, Suite 600, Denver, Colorado 80237.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4767 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Securities Act of 1933, Release No. 9010/March 3, 2009; Securities Exchange Act of 1934, Release No. 59487/March 3, 2009; Order Regarding Review of FASB Accounting Support Fee for 2009 Under Section 109 of the Sarbanes-Oxley Act of 2002

The Sarbanes-Oxley Act of 2002 (the ''Act'') provides that the Securities and Exchange Commission (the ''Commission'') may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets certain criteria. Consequently, Section 109 of the Act provides that all of the budget of such a standard setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and provide for the expenses of the standard setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the ''recoverable budget expenses'' of the standard setting body. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board (''FASB'') and its parent organization, the Financial Accounting Foundation (''FAF''), satisfied the criteria for an accounting standard

setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as ''generally accepted'' under Section 108 of the Act.[1] As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2009. In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2009.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB and the Governmental Accounting Standards Board (''GASB''), the FASB's sister organization, which sets accounting standards used by state and local governmental entities. The Commission has been advised by the FAF that neither the FAF, the FASB nor the GASB accept contributions from the accounting profession.

After its review, the Commission determined that the 2009 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly, *it is ordered,* pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–4780 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[1] Financial Reporting Release No. 70.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59462; File No. SR–CBOE–2009–010]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Regulatory Circular RG02–101 Issued Under Rule 17.50(g)(6)—Imposition of Fines for Minor Rule Violations

February 26, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 18, 2009, Chicago Board Options Exchange, Inc. filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(3) thereunder.[4] 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 Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') proposes to amend Regulatory Circular RG02–101 (Violations of Trading Conduct and Decorum Policies) issued in accordance with Exchange Rule 17.50(g)(6)—Imposition of Fines for Minor Rule Violations to provide the Exchange with the flexibility to allow Exchange members and their associated persons to bring certain foods and/or drinks to the trading floor as set forth by the Exchange in a separate Regulatory Circular. CBOE is also proposing several non-substantive changes. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/Legal*), at the Exchange's Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is proposing to amend Regulatory Circular RG02–101 to enable the Exchange to adopt policies providing exceptions to the existing prohibition of food and drinks on the trading floor. In adopting this flexibility, the Exchange may notify members through a separate Regulatory Circular of food or drinks that would be permissible on the trading floor and, if applicable, any limitations on such permissible food and drinks. Violations of the food or drink policy would continue to be subject to the existing fine schedule as set forth in Exhibit 5. CBOE is proposing to adopt this flexibility to accommodate Members and Associated Persons that are unable to leave the trading floor during the day.

CBOE is also proposing several non-substantive changes. First, CBOE is proposing to remove the previous Regulatory Circular number as a new number will be assigned when the amended circular is issued. In addition, CBOE is proposing to update the contact information included on the Regulatory Circular. In particular, the Exchange is proposing issue the circular from its Legal Division and Member and Regulatory Services Division rather than the Floor Officials Committee. Further, CBOE is proposing to amend the Regulatory Circular to reflect existing staff that may be contacted regarding questions about the Regulatory Circular and remove contact information that is no longer current. CBOE is also proposing to delete an unnecessary comma in the reference to one of the earlier circulars listed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) the Act,[5] in general, and furthers the objectives of Section 6(b)(1) of the Act[6] in particular, to enable the Exchange to enforce compliance by its members and persons associated with its members with the rules of the Exchange.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [7] and Rule 19b–4(f)(3) [8] thereunder because it is concerned solely with the administration of 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.

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–2009–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2009–010. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2009–010 and should be submitted on or before March 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4757 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(3).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59475; File No. SR–BX–2009–014]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Relating to Zero Bid Orders on the Boston Options Exchange Facility

February 27, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 2009, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter V, Section 14 (Order Entry) of the Rules of the Boston Options Exchange Group, LLC (''BOX'') to clarify the treatment of certain Zero Bid Orders.[3] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Chapter V, Section 14 of the BOX Rules to clarify the treatment of Market Orders to sell and BOX-Top Orders to sell when the highest bid on BOX is zero in the options series for a particular order (''Zero Bid Order''). Currently, Section 14 states, in part, that: ''[i]n the case where the lowest offer for any options contract is $.05, and an Options Participant enters a Market Order to sell that series, any such Market Order shall be considered a Limit Order to sell at a price of $.05.'' [4]

The Exchange seeks to amend Chapter V, Section 14 of the BOX Rules to (1) clarify the specific circumstances under which an order will be considered a Zero Bid Order, (2) address the treatment of Zero Bid Orders in options classes that trade in other than $.05 increments, and (3) address the treatment of Zero Bid Orders that would cause a locked or crossed market.

The Exchange proposes to amend Section 14 so that it will apply equally to Market Orders to sell and BOX-Top Orders to sell when the highest bid on BOX is zero in the options series. In this case such Zero Bid Orders shall be considered a Limit Order to sell at a price, above zero, that is equal to the minimum trading increment applicable to that particular options series.

Consequently, where the BOX market displays a zero bid and the options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not otherwise defined herein shall have the meanings set forth in the BOX Rules.

[4] *See* Chapter V, Section 14 of the BOX Rules.

series is subject to the Penny Pilot Program,[5] the Zero Bid Order will be considered a Limit Order to sell at a price of $.01. If the options series is not subject to the Penny Pilot Program, the Zero Bid Order will be considered a Limit Order to sell at a price of $.05 or $.10, depending upon the minimum trading increment for the specific options series of the Zero Bid Order.

The Exchange also seeks to clarify that if the resulting Limit Order would cause either a locked or crossed market, then the original Market Order or BOX-Top Order will be rejected by the Trading Host.

2. Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[6] in general, and Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed amendments will give greater clarification to Options Participants regarding the handling of Zero Bid Orders and provide enhanced treatment of such orders on BOX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BX–2009–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2009–014. 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 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–BX–2009–014 and should be submitted on or before March 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4769 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[5] BOX may trade options contracts in one-cent increments in certain approved issues through March 27, 2009, as part of the Penny Pilot Program. *See* Securities Exchange Act Release No. 56566 (September 27, 2007), 72 FR 56400 (October 3, 2007) (SR–BSE–2007–40).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59460; File Nos. SR–NASDAQ–2009–010, SR–BX–2009–009, SR–Phlx–2009–14]

Self-Regulatory Organizations; the NASDAQ Stock Market, LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX Phlx, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes To Amend the Certificate of Incorporation of The NASDAQ OMX Group, Inc.

February 26, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 17, 2009, The NASDAQ Stock Market, LLC (''NASDAQ Exchange'') and NASDAQ OMX BX, Inc. (''BX''), and on February 20, 2009, NASDAQ OMX Phlx, Inc. (''PHLX'') (collectively, the ''NASDAQ OMX Exchange Subsidiaries'')[3] filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II, and III below, which Items have been substantially prepared by the NASDAQ OMX Exchange Subsidiaries. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The NASDAQ OMX Exchange Subsidiaries are filing the proposed rule changes with regard to proposed changes to the Restated Certificate of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Substantially similar filings have been submitted by Boston Stock Exchange Clearing Corporation (''BSECC'') (SR–BSECC–2009–001) and Stock Clearing Corporation of Philadelphia (''SCCP'') (SR–SCCP–2009–01), the clearing corporation subsidiaries of NASDAQ OMX Group, Inc. (''NASDAQ OMX'').

Incorporation (the ''Certificate'') of their parent corporation, NASDAQ OMX. The proposed rule changes will be implemented as soon as practicable following filing with the Commission. The text of the proposed rule changes is available at *http://www.cchwallstreet.com/nasdaqomx/*, *http://www.nasdaqtrader.com/Trader.aspx?id=BSEIERules2009*, and *http://www.nasdaqtrader.com/Micro.aspx?id=PhlxApprovedRulefilings*, respectively.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In their filings with the Commission, each of the NASDAQ OMX Exchange Subsidiaries included statements concerning the purpose of and basis for its proposed rule change and discussed any comments it received on its proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Each of the NASDAQ OMX Exchange Subsidiaries 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

NASDAQ OMX is proposing to make amendments to its Certificate. As provided in Articles XI and XII of the NASDAQ OMX By-Laws, proposed amendments to the Certificate are to be reviewed by the Board of Directors of each self-regulatory subsidiary of NASDAQ OMX, and if any such proposed amendment must, under Section 19 of the Act and the rules promulgated thereunder, be filed with, or filed with and approved by, the Commission before such amendment may be effective, then such amendment shall not be effective until filed with, or filed with and approved by, the Commission, as the case may be. The governing boards of the NASDAQ Exchange, PHLX, BX, BSECC, and SCCP have each reviewed the proposed change and determined that they should be filed with the Commission.[4] The NASDAQ OMX Exchange Subsidiaries state that the changes to the Certificate are limited in scope, and under Delaware law, they do not require approval by the stockholders of NASDAQ OMX.

Specifically, NASDAQ OMX proposes to eliminate its Certificate of Designations, Preferences and Rights of Series D Preferred Stock, and all matters set forth therein. NASDAQ OMX's Series D Stock was created in 2005 for the purpose of allowing National Association of Securities Dealers, Inc. to retain voting control over NASDAQ OMX's predecessor, The Nasdaq Stock Market, Inc. In connection with the NASDAQ Exchange commencing operations as a national securities exchange, the sole share of Series D Stock was redeemed in December 2006. Under Delaware law, both a certificate of designations (designating a series of preferred stock) and a certificate of elimination (eliminating a previously adopted designation) are deemed to be amendments to NASDAQ OMX's Certificate.

2. Statutory Basis

The NASDAQ OMX Exchange Subsidiaries believe that their respective proposed rule changes are consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(1) and (b)(5) of the Act,[6] in particular, in that the proposal enables the NASDAQ OMX Exchange Subsidiaries to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with and enforce compliance by members and persons associated with members with provisions of the Act, the rules and regulations thereunder, and self-regulatory organization rules, and 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. The proposed changes will enhance the clarity of NASDAQ OMX's governance documents by eliminating provisions relating to a series of preferred stock that is no longer outstanding.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASDAQ OMX Exchange Subsidiaries do not believe that the proposed rule changes 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

The foregoing rule changes have become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and subparagraph (f)(3) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of the respective proposed rule change by the applicable NASDAQ OMX Exchange Subsidiary, the Commission may summarily abrogate such rule changes 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 changes, are 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 Nos. SR–NASDAQ–2009–010, SR–BX–2009–009, and SR–Phlx–2009–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Nos. SR–NASDAQ–2009–010, SR–BX–2009–009, and SR–Phlx–2009–14. These file numbers 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*).

[4] The NASDAQ Exchange, PHLX, BX, BSECC, and SCCP are each submitting a filing pursuant to Section 19(b)(3)(A)(iii) of the Act, 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(1), (5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b-4(f)(3).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 filings also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Nos. SR–NASDAQ–2009–010, SR–BX–2009–009, and SR–Phlx–2009–14, and should be submitted on or before March 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4756 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59472; File No. SR–NYSEALTR–2008–14]

Self-Regulatory Organizations; NYSE Alternext US LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Establish Rules for the Trading of Listed Options

February 27, 2009.

I. Introduction

On December 19, 2008, NYSE Alternext US LLC (''Alternext'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the rules governing the trading of options on the Exchange. The proposed rule change was published for comment in the **Federal Register** on December 31, 2008.[3] The Exchange filed Amendment No. 1 to the proposed rule change on February 27, 2009.[4] The Commission received one comment on the proposal.[5] This notice and order provides notice of Amendment No. 1 and grants accelerated approval to the proposed rule change, as modified by Amendment No. 1.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposal

On October 1, 2008, NYSE Euronext—the parent company of the New York Stock Exchange (''NYSE'')—through a series of mergers and related transactions (''Mergers''), acquired the American Stock Exchange LLC (''Amex''). Amex was renamed NYSE Alternext US LLC and became a subsidiary of NYSE Euronext and an affiliate of NYSE.[6] After the Mergers, all physical and electronic access to Alternext's trading facilities was made available to the former Amex's members through temporary trading permits offered by Alternext. As Amex's principal place of business at the time of the Mergers was 86 Trinity Place, New York, New York, these temporary trading permits are known as ''86 Trinity Permits.''

Subsequently, Amex's cash equities trading floor was moved from 86 Trinity Place to NYSE's principal place of business at 11 Wall Street, New York, New York, and co-located with the NYSE's cash equities trading floor (''Equities Relocation''). The system that supports Alternext's cash equities trading is now the same system that supports NYSE's cash equities trading and is operated by the NYSE on behalf of the Exchange. In connection with the Equities Relocation, the Exchange adopted new trading and membership rules and offered each of its members an Alternext cash equities trading license in exchange for a valid 86 Trinity Permit.[7]

Alternext now proposes to move its options trading business from 86 Trinity Place to 11 Wall Street (''Options Relocation''). In connection with the Options Relocation, the Exchange proposes to issue Amex Trading Permits (''ATPs'') that will permit holders to effect options transactions on the Exchange's trading facilities.[8] A holder of an 86 Trinity Permit under the current rules will be issued an ATP upon submission of the appropriate form to the Exchange.

Trading on the Exchange's relocated facilities at 11 Wall Street will continue to occur on a hybrid system, involving both a physical floor and an electronic system, the NYSE Amex System (''System''). Although the options trading floor will be physically separated from the NYSE and Alternext cash equity trading floor, the options trading floor will be managed and overseen by NYSE Euronext employees. Only ATP Holders that have been approved to perform a floor function—Floor Brokers and Floor Market Makers (including Specialists)—will be authorized to enter into transactions on the trading floor.

Alternext has proposed to update and reorganize its rules for trading options in open outcry and to establish a new set of rules that will govern trading on the System.[9] The Exchange has submitted a separate proposed rule change to delete certain existing Exchange rules.[10]

Alternext will retain many of its existing member rules, including those relating to capital, margin, recordkeeping, customer protection, and account maintenance. The Exchange also has proposed to keep certain existing options-related rules, including rules on position and exercise limits and listing standards. With respect to transactions in Flexible Exchange Options (''FLEX Options'') conducted on the Trading Floor, the Exchange stated that current NYSE Alternext Rules 900G through 909G will remain operative.[11]

[3] *See* Securities Exchange Act Release No. 59142 (December 22, 2008), 73 FR 80494.

[4] For a discussion of Amendment No. 1, *see infra* Section III.H.

[5] *See* letter from Jennifer M. Lamie, Assistant General Counsel, Chicago Board Options Exchange (''CBOE''), to Florence E. Harmon, Deputy Secretary, Commission, dated February 4, 2009.

[6] *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (order approving proposed rule change relating to the acquisition).

[7] *See* Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008).

[8] In addition, the Exchange would allow access to the System by ''Sponsored Participants.'' A Sponsored Participant is a person that has entered into an agreement with a Sponsoring ATP Holder through which it may execute transactions on the System. *See* proposed Rule 902.1NY(c). This proposed rule is substantially similar to Rule 6.2A of the Rules of NYSE Arca, Inc. (''NYSE Arca'').

[9] In a separate filing, the Exchange described the relationship between the Exchange and its routing broker and the conditions related to its operation. The Commission is approving that proposed rule change in a separate action today. *See* Securities Exchange Act Release No. 59473 (February 27, 2009) (SR–NYSEALTR–2009–18).

[10] *See* Securities Exchange Act Release No. 59454 (February 25, 2009) (SR–NYSEALTR–2009–17). The deletions effected by SR–NYSEALTR–2009–17 will become operative simultaneously with the operativeness of the rules proposed in this filing.

[11] The Exchange noted that certain terms in existing NYSE Alternext Rules 900G–909G will become outdated upon approval of the rules

Continued

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[13] which requires that the rules of an exchange be designed to facilitate transactions in securities; 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act[14] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Discussed below are the most salient features of the proposal.

A. Market Participants

1. Floor Brokers

A Floor Broker as defined in the proposed rules is an ATP Holder who is registered with the Exchange for the purpose, while on the floor, of accepting and executing options orders received from ATP Holders and, in certain circumstances, orders from others.[15] The proposed rules governing Floor Brokers include general responsibilities to exercise due diligence in representing an order and specific responsibilities with respect to the handling of various order types. These rules are substantially similar to those of NYSE Arca[16] and do not raise any novel or significant issues, and the Commission finds that they are consistent with the Act.

2. Market Makers

Currently, the Exchange has four general classifications of Market Maker: Specialist, Registered Options Trader (''ROT''), Supplemental Registered Options Trader (''SROT''), and Remote Registered Options Trader (''RROT''). The Exchange states that these classifications will remain essentially the same under the proposal, although ROTs and SROTs would be combined into one classification as Floor Market Makers (''FMMs''), and RROTs would become Remote Market Makers (''RMMs'').

The general term Market Maker in the proposed rules includes Specialists, e-Specialists, FMMs, and RMMs.[17] The Exchange is permitted to appoint one Specialist on the floor per option class, additional e-Specialists, and any number of Market Makers in each class, unless limited by quotation system capacity.[18]

The proposed rules governing Market Maker appointments and obligations generally—including rules concerning evaluation of Market Maker performance, suspension or termination of Market Maker appointments, and appeal for review of Exchange actions adversely affecting a Market Maker—are closely modeled on similar rules of NYSE Arca.[19]

The Exchange represented that NYSE Alternext U.S. Rule 3(j), which governs the use of material, non-public information, applies to ATP Holders trading on the System. The Exchange also represented that Rule 3(j) requires a Market Maker to maintain information barriers—reasonably designed to prevent the misuse of material, non-public information by such Market Maker—between the Market Maker and any of its affiliates that may act as specialist or market maker in any security underlying the options in which the Market Maker makes a market on the Exchange.[20] The Exchange stated that it believes that requiring information barriers between the Market Maker and its affiliates with respect to transactions in the option and the underlying security is important to reduce the opportunity for unfair trading advantages or misuse of material, non-public information. The Commission believes that the proposed rules relating to the duties and obligations of Market Makers generally, and in particular the rules that govern the use of material, non-public information, are consistent with the Act.[21]

a. FMMs and RMMs

FMMs and RMMs are required to apply and be approved for an appointment in one or more options classes. The number of options issues that an FMM or RMM may select is based on the number of ATPs the FMM or RMM holds.[22] In addition, an FMM is required to select an appointment to a Trading Zone on the floor. FMMs and RMMs are required to provide continuous, two-sided quotes in their appointed issues, in accordance with maximum prescribed width requirements, for 60% of the time the Exchange is open for trading in each issue, and to trade at least 75% of their contract volume per quarter in classes within their appointments.[23] All transactions effected by an FMM in open outcry in the FMM's designated Trading Zone will be considered as transactions towards satisfying the rule requiring that an FMM trade at least 75% of its contract volume per quarter in classes within its appointments.

The Commission believes that the proposed rules governing Market Maker activity on the Exchange are consistent with the Act.[24]

b. Specialists and E-Specialists

The proposed rules include provisions governing the appointment and activities of Specialists, who are assigned a location on the floor where their issues will trade, and e-Specialists,

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proposed herein. The Exchange represented that it will review these rules and will submit a separate filing to revise any outdated references. *See* Amendment No. 1 at 6.

[12] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

[15] *See generally* proposed Rules 930NY–933NY.

[16] *See* NYSE Arca Rules 6.43–6.46.

[17] *See* proposed Rule 920NY (as modified by Amendment No. 1).

[18] The proposed rules provide, however, that the Exchange will not restrict access in any particular option class until the Commission approves objective standards for restricting such access. *See* proposed Rule 923NY(b).

[19] Regarding Market Maker appointments, *see* proposed Rule 923NY (based on NYSE Arca Rule 6.35). Regarding Market Maker obligations, *see* proposed Rule 925NY (based on NYSE Arca Rule 6.37), which outlines such obligations (i) generally, (ii) within a Market Maker's appointed classes, and (iii) outside of a Market Maker's appointed classes. *See also* proposed Rule 925.1NY (based on NYSE Arca Rule 6.37B); proposed Rule 925.2NY (based on NYSE Arca Rule 6.37C). The proposed rules also provide a mechanism for limiting Market Maker risk during periods of increased and significant trading activity on the System in a Market Maker's appointment. *See* proposed Rule 928NY. The Exchange would activate the mechanism in a Market Maker's appointed class whenever a designated number of executions (ranging between five and 100 executions) occurs within one second. Orders and quotations received by the Exchange after the mechanism is activated would not be executed against the Market Maker. The proposed rule is similar to NYSE Arca Rule 6.40.

[20] *See* Amendment No. 1 at 5.

[21] *See* Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129, 27137 (May 19, 2003) (SR–PCX–2002–36).

[22] *See* proposed Rule 923NY(d).

[23] *See* proposed Rule 923NY(i).

[24] *See supra* note 19. *See also* Securities Exchange Act Release No. 54236 (July 28, 2006), 71 FR 44758 (August 7, 2006) (order approving similar rules on OX, NYSE Arca's automated options trading system) (''OX Approval Order'').

who are RMMs appointed to fulfill certain obligations required of Specialists. Under the proposal, the Exchange is permitted to appoint one Specialist and an unlimited number of other Market Makers per class.[25]

Any ATP Holder registered as a Market Maker with the Exchange is eligible to be qualified as a Specialist[26] and may be allocated any one or more of the option issues opened for trading. The allocation of issues among qualified applicants will be determined by the Exchange, which will select the candidate that appears best able to perform the functions of a Specialist in a particular option issue.

Each Specialist will be appointed to the Trading Zone designated for its options classes. A Specialist is required, among other things, to provide continuous two-sided quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading[27] and otherwise fulfill the obligations of Market Makers generally. A Specialist's quotations must meet the legal quote requirements specified in proposed Rule 925NY.[28]

In addition, the Exchange is permitted to designate e-Specialists in an options class to fulfill certain obligations required of Specialists.[29] Factors to be considered in approving e-Specialists include adequacy of resources; history of stability, superior electronic capacity and superior operational capability; market making and/or specialist experience in a broad array of securities; ability to interact with order flow in all types of markets; existence of order flow commitments; willingness to accept allocation as an e-Specialist in options in at least 400 underlying securities; and willingness and ability to make competitive markets on the Exchange and to promote the Exchange in a manner that is likely to enhance the ability of the Exchange to compete successfully for order flow in the options it trades.

Option classes that have been allocated to a Specialist may be concurrently allocated to one or more e-Specialists,[30] with the Exchange to determine the appropriate number.[31] Each e-Specialist will be required to fulfill all the obligations set forth in proposed Rules 925NY and 925.1NY. E-Specialists have the same 90% quoting obligation as Specialists.[32]

The Commission believes that the proposed rules regarding Specialists and e-Specialists raise no novel or significant issues and are substantially similar to rules that it has previously approved for other exchanges.[33] The Exchange has based its proposed rules regarding e-Specialists on rules the Commission has approved for CBOE,[34] and the Commission believes that they are consistent with the Act.

c. Directed Order Market Makers

As discussed in more detail below,[35] the System will permit Order Flow Providers[36] to direct orders to ''Directed Order Market Makers.'' A Directed Order Market Maker, who may be a Specialist or other Market Maker, must provide continuous two-sided quotations throughout the trading day, meeting legal width requirements,[37] in issues for which it receives Directed Orders for 90% of the time the Exchange is open for trading in each issue.[38]

B. Ranking and Execution of Orders

As noted above, Alternext will trade options on an electronic trading system and in open outcry on the floor.

1. Electronic Trading

a. Display Order Process

The System will display all quotations and non-marketable limit orders (unless an order type indicates otherwise) in the ''Display Order Process'' of its book, at all price levels on an anonymous basis.[39] Bids and offers, including the displayed portion of Reserve Orders,[40] will be ranked and maintained in the Display Order Process according to account type (*e.g.*, Customer or non-Customer)[41] and the following priority rules:

The highest bid will have priority over all other bids, and the lowest offer will have priority over all other offers. Bids and offers for Customer accounts, including the displayed portion of Customer Reserve Orders, will have priority over other bids or offers at the same price. If there is more than one highest bid or lowest offer for a Customer account then such bid or offer will be ranked based on time priority.

A bid or offer for the account of a Directed Order Market Maker—discussed below—will have second priority for a Directed Order if the Directed Order Market Maker is eligible to receive a guaranteed participation in such bid or offer.[42] If there is no Directed Order Market Maker guarantee, then bids or offers in the book for the accounts of participants in the Specialist Pool[43]—also discussed below—will have priority if the Specialist Pool is eligible to receive a guaranteed participation in such bids or offers.[44]

Orders and Quotes with Size[45] in the book for the accounts of all other non-

[25] *See* proposed Rule 923NY(b).

[26] The provisions regarding Specialists are set forth primarily in proposed Rules 925.1NY(b) and 927–927.3NY.

[27] These obligations will apply to all of the Specialist's appointed issues collectively, rather than on an issue-by-issue basis.

[28] There are exceptions to these quoting requirements for systems failures and limitations and other mitigating circumstances.

[29] *See generally* proposed Rules 927.4–927.6NY.

[30] Each e-Specialist organization is required to maintain a sufficient number of ATPs to include appointments in classes where the organization is acting as an e-Specialist.

[31] The Exchange will grant e-Specialists allocations in option classes based on factors including performance, capacity, performance commitments, efficiency, competitiveness, and operational factors. *See* proposed Rule 927.4(b).

[32] *See* proposed Rule 927.5NY(a) (as modified by Amendment No. 1), which specifies that an e-Specialist is required to meet the 90% quoting obligations of Specialists set forth in Rule 925.1NY(b).

[33] *See, e.g.*, NYSE Arca Rules 6.82–6.83 (regarding Lead Market Makers); Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003) (order approving rules for the PCX Plus options trading platform).

[34] *See* CBOE Rules 8.92–8.94. *See also* Securities Exchange Act Release No. 49643 (April 30, 2004), 69 FR 25647 (May 7, 2004) (order approving rules adding the category of e-DPMs to the types of market makers trading on CBOE).

[35] *See infra* Section III.B.1.c.

[36] An Order Flow Provider is defined in proposed Rule 900.2NY(57) to mean any ATP Holder that submits, as agent, orders to the Exchange.

[37] *See* proposed Rule 925NY (as modified by Amendment No. 1).

[38] *See* proposed Rule 964.1NY (as modified by Amendment No. 1). The above obligations will apply to all of the Directed Order Market Maker's issues collectively for which it receives Directed Orders, rather than on an issue-by-issue basis. Compliance with this obligation will be determined on a monthly basis.

[39] The System also will disseminate consolidated quotations and last-sale information, and such other market information as may be made available from time to time pursuant to agreement between the Exchange and other Market Centers, consistent with the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information.

[40] A ''Reserve Order'' is defined in proposed Rule 900.3NY(d)(3) as a limit order with a portion of the size displayed and with a reserve portion of the size that is not displayed on the Exchange. Upon entry into the System, a marketable Reserve Order will be executed in whole or in part up to its full size, regardless of the reserve size. *See* Amendment No. 1 at 3.

[41] An order for the account of a ''Customer''—defined in proposed Rule 900.2NY(18) as an individual or organization that is not a broker-dealer—has priority over the bid or offer of a non-Customer at the same price.

[42] *See* proposed Rule 964.1NY.

[43] The ''Specialist Pool'' is defined in proposed Rule 900.2NY(75) as the aggregated size of the best bid and best offer, in a given series, among the Specialist and e-Specialists that match in price.

[44] *See* proposed Rule 964.2NY.

[45] The term ''Quote with Size'' is defined in proposed Rule 900.2NY(65) to mean a quotation to buy or sell a specific number of option contracts at

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Customers have next priority. If there is more than one highest bid or lowest offer for the account of a non-Customer, then such bids or offers will be afforded priority on a ''size pro rata'' basis and will comprise the ''size pro rata pool.''

b. Working Orders

In addition to bids and offers that are displayed in the Display Order Process, the System will accept ''Contingency Orders'' and ''Working Orders,'' which are orders that are contingent upon a condition being satisfied or orders with a conditional or undisplayed price and/or size. Contingency Orders and Working Orders are maintained in the ''Working Order File'' of the book until eligible for execution and/or display.[46] Such orders include Reserve Orders, Stop Orders,[47] Stop Limit Orders,[48] All-or-None Orders, and Tracking Orders.[49]

After displayed interest at a particular price has been executed, orders in the Working Order File have next priority. However, such orders do not have any priority or standing until they are eligible for execution and/or display.[50] For example, when the displayed portion of a Reserve Order has been fully executed,[51] the display is refreshed from the reserve portion of the order (which had been maintained in the Working Order File) up to the size of the original display with a new time stamp.[52] Stop Orders and Stop Limit Orders are not eligible to execute against incoming orders, and become eligible to execute via the Display Order Process only after the incoming order is executed in full or rests in the book, or the Stop or Stop Limit Order is sent to the Display Order Process at the end of a triggering event.[53]

A Tracking Order is defined as an undisplayed limit order that is eligible for execution after the Display Order Process against orders equal to or less than the size of the Tracking Order.[54] A Tracking Order is ranked according to its limit price, but is executable only at a price matching the NBBO. It will not trade through the NBBO. If a Tracking Order is executed but not exhausted, the remaining portion of the order will be canceled, without routing the order to another Market Center[55] or market participant.[56] Tracking Orders have last priority and never become part of the Display Order Process.[57] They have standing only if contra-side interest in the System would otherwise be routed to another market center at the NBBO.[58] Tracking Orders will not execute against incoming Linkage Orders.

The proposed rules provide that, prior to or after submitting an order to the System, an ATP Holder is not permitted to inform another ATP Holder or any other third party of any of the terms of the order.[59] In addition, it will be a violation of Rule 935NY when an ATP Holder enters a Tracking Order for the purpose of executing as principal an order it also represents as agent.[60]

c. Participation Entitlements

The System will include participation guarantees that, when the requisite conditions are fulfilled, will entitle certain participants—Specialists, e-Specialists, and Directed Order Market Makers—to a certain percentage of each incoming order, after Customer Orders are satisfied.

Directed Order Market Makers. The System will permit Specialists and Market Makers to receive ''Directed Orders.''[61] A Directed Order is a marketable order that has been directed to a particular Market Maker by an Order Flow Provider.[62] If an incoming marketable order is so directed, the Directed Order Market Maker will be entitled to receive 40% (or such lower percentage as may be determined by the Exchange) of the portion of an order remaining after Customer Orders in the book have been satisfied, provided the Directed Order Market Maker is quoting at the NBBO at the time the order is received by the Exchange for at least that size.[63]

To be eligible to receive Directed Orders, a Directed Order Market Maker must provide continuous two-sided quotations throughout the trading day in issues for which it receives Directed Orders for 90% of the time the Exchange is open for trading in each issue.[64]

Specialists and e-Specialists. In the System, the proposed rules permit the Exchange to establish from time to time a participation entitlement for Specialists and e-Specialists, known collectively as the ''Specialist Pool.'' The Specialist Pool participation entitlement will not apply when a Directed Order Market Maker receives a guaranteed participation. To receive a participation entitlement, a Specialist (on the trading floor) or e-Specialist must be quoting at the NBBO and may not be allocated a total quantity greater than the quantity than it is quoting at the NBBO. The Specialist Pool will be entitled to up to 40% of the size of an incoming order (or such lower percentage as may be determined by the Exchange) that remains after all Customer Orders in the book at the best bid or offer have been satisfied.

Within the Specialist Pool participation entitlement, the Specialist and e-Specialists quoting at the NBBO will participate on a size pro rata basis. However, the Specialist's size pro-rata participation in the Specialist Pool will receive additional weighting, as

a specific price that a Market Maker has submitted to the System.

[46] *See* Amendment No. 1 at 3.

[47] A Stop Order is defined as an order that becomes a market order when the market for a particular option contract reaches a specified price (''triggering event''). A Stop Order to buy (sell) becomes a market order when the option contract trades at or above (below) the stop price on the Exchange or another Market Center or when the Exchange bid (offer) is quoted at or above (below) the stop price. *See* proposed Rule 900.3NY(d)(1).

[48] A Stop Limit Order is defined as an order that becomes a limit order when the market for a particular option contract reaches a specified price. A Stop Limit Order to buy (sell) becomes a Limit Order when the option contract trades at or above (below) the stop price on the Exchange or another Market Center or when the Exchange bid (offer) is quoted at or above (below) the stop price. *See* proposed Rule 900.3NY(d)(2).

[49] *See infra* notes 54–58 and accompanying text.

[50] *See* proposed Rule 964NY(b)(2)(E) (as modified by Amendment No. 1).

[51] *See supra* note 40.

[52] *See* proposed Rule 900.3NY(d)(3) (as modified by Amendment No. 1).

[53] *See* proposed Rule 900.3NY(d)(1) (as modified by Amendment No. 1).

[54] *See* proposed Rule 900.3NY(d)(5) (as modified by Amendment No. 1).

[55] A ''Market Center'' is defined in proposed Rule 900.2NY(36) as a national securities exchange that has qualified for participation in the Options Clearing Corporation (''OCC'') pursuant to the provisions of the rules of the OCC.

[56] The Exchange provided two examples: (1) The NBBO market in a series is 2.05–2.15. The Exchange's displayed bid is 2.00, but there is a Tracking Order in the Working Order File bidding 2.10 for 10 contracts. An order is received on the Exchange to sell six contracts at 2.05. This order would be matched against the 2.10-buy Tracking Order at a price of 2.05, matching the NBBO. (2) After the same initial scenario, a second Tracking Order to buy 20 contracts paying 2.05 is placed in the book. An order is received to sell 15 contracts at 2.05. The incoming sell order, being larger in size than the first Tracking Order, cannot be executed against it. The incoming order is therefore matched against the second Tracking Order, and will be executed at 2.05, the NBBO price.

[57] *See* proposed Rule 964NY(b)(2)(F) (as modified by Amendment No. 1).

[58] As stated by the Exchange, Tracking Orders are intended only to provide liquidity in the event a marketable order would otherwise route to another exchange. *See* Amendment No. 1 at 7.

[59] *See* proposed Rule 935NY, Commentary .04 (as added by Amendment No. 1).

[60] *See* proposed Rule 935NY, Commentary .05 (as added by Amendment No. 1).

[61] *See* proposed Rule 964.1NY.

[62] *See* proposed Rule 900.3NY(s).

[63] The Directed Order Market Maker will be allocated a number of contracts equal to the greater of the guaranteed participation or its ''size pro rata'' allocation, but in either case, no greater than the size of the Directed Order Market Maker's disseminated size.

[64] Such quotations must meet the legal quote width requirements of Rule 925NY. These quoting obligations will apply collectively to all series in all of the issues for which the Directed Order Market Maker receives Directed Orders, rather than on an issue-by-issue basis. Compliance will be determined on a monthly basis. *See* proposed Rule 964.1NY(iv) (as added by Amendment No. 1).

determined by the Exchange and announced via Regulatory Bulletin, but in no case greater than 66⅔% if there is only one e-Specialist, and no more than 50% if there are two or more e-Specialists.

For all orders of five contracts or fewer, the Specialist Pool will be allocated any balance of the order after any Customer Orders on the book have been satisfied, provided the Specialist Pool is quoting at the NBBO and a Directed Order Market Maker did not receive a guaranteed allocation. These orders of five contracts or fewer, or any balances thereof after Customer Orders in the book have been satisfied, will be allocated to each participant in the Specialist Pool on a rotating basis, provided the recipient Specialist's quoted size is equal to or greater than the size of the allocation.[65]

d. Additional Provisions

If an incoming limit order is not entirely filled after trading against any eligible interest in the Working Order File, the balance of the order will be executed at the next available price level or, if the limit order locks or crosses the NBBO, matched against any available Tracking Order (prior to being routed) or routed to the away market(s) displaying the NBBO.[66] If the above conditions do not apply, and the order is no longer marketable, or if the order has been designated as an order type that is not eligible to be routed away, the order would be placed in the book or, if it would lock or cross the NBBO, canceled.[67]

The proposed rules also include a provision providing that ATP Holders may not execute as principal orders they represent as agent on the System unless (i) agency orders are first exposed on the Exchange for at least three seconds; or (ii) the user has been bidding or offering on the Exchange for at least three seconds prior to receiving an agency order that is executable against such bid or offer.[68]

The Commission believes that the Exchange's proposed priority and allocation rules are consistent with the Act. The Commission has previously approved participation guarantees for Market Makers, to which orders are directed by other exchange members, of up to 40% of the size of such directed orders (after any Customer Orders have been satisfied), provided such Market Maker is quoting at the NBBO when the order is received by the Exchange and meets specified, higher quoting obligations.[69] In its comment letter, CBOE stated that the proposed Directed Order Market Maker program is similar to other options exchanges' programs, but noted that the Alternext proposal, unlike the rules of other exchanges, appeared not to require Directed Order Market Makers to be subject to a heightened quoting requirement to qualify as Directed Order Market Makers. In Amendment No. 1, the Exchange added a provision that establishes such a heightened standard.[70]

The Commission has also previously approved Specialist Pool participations of up to 40% of the size of incoming orders (after any Customer Orders have been satisfied and only when the Directed Order guarantee has not been applied), provided that the Specialist Pool is quoting at the NBBO when the order is received by the Exchange. The Commission believes that these guarantees strike a reasonable balance between rewarding certain participants for making markets (in the case of Specialists and e-Specialists) or bringing liquidity to the exchange (in the case of Directed Order Market Makers), with providing other market participants an incentive to quote aggressively.

The Commission also believes that the proposed rules providing for the allocation of orders of five contracts or fewer to the Specialist Pool are consistent with the Act.[71]

With regard to Working Orders and their conditions of execution, the Commission has previously approved most of the order types that the Exchange proposes to implement. Although the Commission has not previously approved an order type in the options markets with exactly the same features as the Tracking Order,[72] the Commission also finds the proposed rules relating to Tracking Orders to be consistent with the Act. As set forth in the proposed rules, an incoming order will never be executed against a Tracking Order at a price that is inferior to the NBBO. Thus, an execution against a Tracking Order would never trade through the best price available on another market. An incoming order also will never be executed at a price better than the NBBO. Thus, Tracking Orders do not constitute hidden interest at a better price than the publicly disseminated market.

Tracking Orders are intended only to provide liquidity in the event a marketable order would otherwise route to another exchange. Tracking Orders provide participants on the System the ability to pre-set orders to automatically ''step up'' to the NBBO to trade against an incoming order when no other interest at that price is available on the Exchange, before the order is routed to another exchange. In this regard, the use of Tracking Orders is similar to automatic step-up features on other exchanges that the Commission has approved.[73]

In its comment letter on the proposed rule change,[74] CBOE expressed its understanding that, because Tracking Orders are not exposed in the System, they should not be eligible for crossing pursuant to proposed Rule 935NY.[75] In Amendment No. 1, the Exchange responded to this comment by adding a new Commentary .05 to proposed Rule 935NY stating explicitly that it will be a violation of Rule 935NY when an ATP Holder enters a Tracking Order for the purpose of executing as principal an order it also represents as agent. The Commission believes that this provision

[65] Commentary .01 to proposed Rule 964NY provides that, on a quarterly basis, the Exchange will evaluate what percentage of the volume executed on the Exchange is composed of orders for five contracts or fewer that is allocated to the Specialist Pool, and will reduce the size of the orders included in this entitlement if such percentage is over 40%.

[66] If an incoming market order is not entirely filled after trading against any eligible interest in the Working Order File, the balance of the order will be executed at the next available price level based on split-price execution or, if such order is marketable against the NBBO, the order would be executed against any eligible Tracking Order or routed away. E-mail from Andrew Stevens, Chief Counsel—U.S. Equities & Derivatives, NYSE Euronext, Inc., to Michael Gaw, Assistant Director, Division of Trading and Markets, Commission, on February 26, 2009.

[67] *See* proposed Rule 964NY(c)(2) (as modified by Amendment No. 1).

[68] *See* proposed Rule 935NY. The Exchange stated that attempts to use a Tracking Order to execute a cross transaction is considered a violation of Rule 935NY, as that rule requires an order to be exposed (displayed) if it is part of a cross transaction. *See* Amendment 1 at 7. *See also supra* note 60 and accompanying text.

[69] *See* Securities Exchange Act Release No. 57844 (May 21, 2008), 73 FR 30988 (May 29, 2008) (directed orders on NASDAQ OMX PHLX). Other exchanges have similar directed order or ''preferred market maker'' programs. *See, e.g.*, CBOE Rule 8.13; International Securities Exchange (''ISE'') Rule 713; current Exchange Rule 997–ANTE.

[70] *See* proposed Rule 964.1NY(iv) (as added by Amendment No. 1).

[71] Other exchanges have similar rules. *See, e.g.*, ISE Rule 713; NASDAQ OMX PHLX Rule 1014(g).

[72] Similar orders have previously been approved in the equities markets. *See* Securities Exchange Act Release No. 53117 (January 13, 2006), 71 FR 3910 (January 24, 2006) (SR–PCX–2005–87).

[73] *See, e.g.*, CBOE Rule 6.8, Interpretations and Policies .02(b).

[74] *See supra* note 5.

[75] Proposed Rule 935NY provides that, with respect to orders routed to the System, users may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least three seconds or (ii) the user has been bidding or offering on the Exchange for at least three seconds prior to receiving an agency order that is executable against such bid or offer.

is reasonably designed to prevent use of Tracking Orders to circumvent the general requirement to expose agency orders before executing against them as principal, and is therefore consistent with the Act. The Exchange also added a new Commentary .04 to proposed Rule 935NY to provide that, prior to or after submitting an order to the System, an ATP Holder is not permitted to inform another ATP Holder or any other third party of any of the terms of the order. The Commission believes that this provision is consistent with the Act because it is reasonably designed to prevent ATP Holders from providing material, non-public information to third parties and to promote compliance with the Commission's Quote Rule.[76]

CBOE also argued that, prior to effecting any transactions in open outcry, Exchange members should be required to electronically ''sweep'' the book for any Tracking Order interest in the System, so as not to violate the priority of such orders. CBOE pointed to rules at other exchanges that require members seeking to trade in open outcry to electronically sweep the book for any penny interest from ''penny price improvement orders'' [77] before executing an order. The Exchange responded that a Tracking Order does not have any standing with regard to open-outcry trading, as it is not displayed and, unlike price-improving orders and quotations, is not represented by a displayed bid or offer at an indicative price. The Commission agrees with the distinction made by the Exchange. As set forth in the proposed rules, a Tracking Order has standing only if contra-side interest in the System would otherwise be routed to another market center at the NBBO.[78] The Commission also notes that Tracking Orders can be entered in the System only at standard trading increments, and thus cannot be used to gain priority over displayed interest by a sub-increment amount.

CBOE further questioned the proposed provision that, when a Tracking Order in the System is at a better price than another Tracking Order, but cannot be executed due to insufficient size, it does not have priority. CBOE also questioned in general why an incoming order does not trade against a Tracking Order at a price better than the NBBO when the Tracking Order is submitted at such a price. In Amendment No. 1, the Exchange responded that the order handling instruction on a Tracking Order is that it is to be executed only at a price that matches the NBBO on the same side of the market, and only against lesser or equal-sized contra-side interest. The limit price on a Tracking Order serves only to provide a boundary on the order's possible execution price and to establish its ranking. The Commission believes that the Exchange's response adequately addresses CBOE's question, and that it is consistent with the Act for the Exchange to offer an order type with these conditions.

e. Open-Outcry Trading

Proposed Rule 963NY describes priority and order allocation for open-outcry trading, including procedures to be followed when there is interest at the same price in the book as on the trading floor. The proposed rules governing open-outcry trading on the Exchange floor are similar to those at other exchanges with trading floors, and the Commission finds that they are consistent with the Act.

When a Floor Broker or Market Maker makes a bid or offer or calls for a market and more than one ATP Holder responds at the same best price, the Floor Broker or Market Maker must designate the sequence in which responses are vocalized. As between two bids or offers at the same best price, priority is afforded in the sequence they are made.[79] If they were made simultaneously or it is impossible to determine clearly the order in which they were made, such orders would be deemed to be on parity, and priority will be afforded, insofar as practicable, on an equal basis. However, a Customer Order displayed in the book at the same price as the best price in the crowd will have priority over any bid or offer at the post. After any Customer Orders displayed in the book at the best bid or offer in the crowd are satisfied, the Specialist is entitled to trade with 40% of the order, provided the Specialist has vocally responded to the Floor Broker's call for a market and has responded with a price that is the best bid or offer. Bids and offers of broker-dealers (including Quotes with Size and orders of Market Makers displayed on the book) would have priority after all trading crowd interest is exhausted.

Customer-to-Customer Crosses. The proposed rules include procedures by which a Floor Broker who holds a Customer Order to buy and a Customer Order to sell may cross such orders on the floor.[80] After providing an opportunity for bids and offers to be made by members of the trading crowd, the Floor Broker must bid above the highest bid in the crowd and offer below the lowest offer in the crowd. After satisfying all better priced bids or offers on the book and any Customer Orders on the book at the same price, the Floor Broker is permitted to cross the orders at such higher bid or lower offer by announcing by open outcry that he is crossing orders on behalf of Customers, and giving the quantity and price. The Floor Broker is permitted to cross the orders at split prices if the rules governing split price transactions are met.[81]

Non-Facilitation (Regular Way) Crosses. The proposed rules also include procedures by which a Floor Broker who holds a Customer Order and a non-Customer order may cross such orders.[82] After providing an opportunity for bids and offers to be made by members of the trading crowd, the Floor Broker must expose the Customer Order by bidding above the highest bid in the crowd or offering below the lowest offer in the crowd, by at least one minimum price variation (''MPV''). After satisfying all better priced bids or offers on the book, any Customer Orders on the book at the same price, and any interest by members of the trading crowd at such higher bid or lower offer, the Floor Broker is permitted to cross the orders (or any part remaining unexecuted) at such higher bid or lower offer by announcing by open outcry that he is

[76] 17 CFR 242.602. The Quote Rule, in relevant part, requires a national securities exchange to collect, process, and make available to vendors the best bid, the best offer, and aggregate quotation sizes for each subject security that is communicated on any national securities exchange by a responsible broker or dealer. A ''bid'' or ''offer'' is defined as ''the bid price or the offer price communicated by a member of a national securities exchange or member of a national securities association to any broker or dealer, or to any customer.* * *'' 17 CFR 242.600(b)(8). Because Tracking Orders and the non-displayed size of Reserve Orders are sent only to the Exchange systems and not ''communicated * * * to any broker, dealer, or customer,'' such orders are not ''bids'' or ''offers.'' Thus, the Quote Rule does not require the Exchange to disseminate information about Tracking Orders and the non-displayed size of Reserve Orders. However, if an ATP Holder were to inform a third party of the terms of a Tracking Order or the non-displayed size of a Reserve Order, such Orders would become ''bids'' or ''offers'' subject to the Quote Rule.

[77] ''Penny price improvement'' rules permit members of an exchange to submit bids and offers that provide price improvement in one cent increments that are not displayed in the book, in options in which the standard increment is more than one cent. Such bids and offers are displayed by rounding to the nearest standard increment.

[78] *See* proposed Rule 900.3NY(d)(5).

[79] Thus, for example, the bid or offer of a non-Customer in the trading crowd that was made before that of a Customer represented by a Floor Broker in the trading crowd would take priority over the Customer Order (provided the requirements of Section 11(a) of the Act and the rules thereunder are met).

[80] *See* proposed Rule 934NY(a).

[81] *See* proposed Rule 963NY(f).

[82] *See* proposed Rule 934NY(b).

crossing the orders, and giving the quantity and price.

Facilitation Crosses. The proposed rules further include procedures by which a Floor Broker who holds a Customer Order and a Facilitation Order may cross such orders.[83] After providing an opportunity for bids and offers to be made by crowd members, the Floor Broker, on behalf of the Customer whose order is subject to facilitation, must disclose any contingencies with respect to the order, identify the order as being subject to facilitation, and establish priority by either bidding or offering at or between the best bid or offer in the market. After all other crowd members are given an opportunity to accept the bid or offer made on behalf of the Customer, the Floor Broker is permitted to cross all or any remaining part of such order and the Facilitation Order at the price of the Customer's bid or offer by announcing by open outcry that he is crossing such orders, and stating the quantity and price.

Notwithstanding the above, if the proposed cross transaction meets the eligible size requirement of 50 contracts or larger, a Facilitation Order can trade with up to 40% of the Customer Order, after satisfying all better-priced bids or offers on the book or in the trading crowd and any Customer Orders at the same price.[84]

''At-Risk'' Crosses. The proposed rules establish an alternative to the Facilitation Cross procedures for a Floor Broker that seeks to cross a Customer Order with an order from the ATP Holder from which the Customer Order originated.[85] After providing an opportunity for bids and offers to be made by members of the trading crowd, the Floor Broker must represent the Customer Order to the trading crowd, indicating that it is a Customer Order and providing the order's size, side of the market, and a price. After giving the trading crowd an opportunity to improve its quote, the Floor Broker may improve the crowd's market on behalf of the ATP Holder to one MPV away from the Customer Order and thereby establish priority over the crowd at this new price. The crowd may trade with the Customer Order at that order's price, or trade with the ATP Holder's order at its proposed price. To the extent the crowd does not trade with the Customer Order, the Floor Broker may effect the cross.

The Commission finds that the Exchange's proposed crossing rules are consistent with the Act. They are similar to other crossing rules that the Commission has previously approved for Amex and other exchanges[86] and do not appear to raise any novel or significant issues.

Solicited Orders. The proposed rules include procedures by which a Floor Broker representing an order (''originating order'') may cross it with an order solicited from another ATP Holder or non-member broker-dealer outside the trading crowd (''solicited party'').[87] The Floor Broker must announce to the trading crowd the same terms and conditions about the originating order as disclosed to the solicited party. The Floor Broker would also announce the price at which he is prepared to buy from or sell to the solicited party. After all other market participants are given a reasonable opportunity to accept the bid or offer, the solicited party may trade with any remaining part of the originating order.

Generally, non-solicited market participants and Floor Brokers holding non-solicited discretionary orders in the crowd have priority over the solicited party or the solicited order to trade with the original order at the best bid or offer price. However, if the solicited order improved the crowd's quoted market, the Floor Broker would be permitted to cross the solicited order against the Customer Order to the extent of 40% of the contracts remaining after any Customer Orders have been filled. The eligible order size for this guarantee to apply is a minimum of 50 contracts.[88]

The Exchange's proposed rules for solicited orders, which are similar to rules the Commission has previously approved,[89] do not appear to raise any novel or substantive issues, and the Commission believes they are consistent with the Act.

C. Section 11(a) Compliance

Section 11(a)(1) of the Act[90] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (each, a ''covered account,'' and collectively, ''covered accounts''), unless an exemption applies. Sections 11(a)(1)(A)–(I) of the Act[91] and the rules thereunder provide certain exemptions from the general prohibition, including the exemptions set forth in Rules 11a2–2(T) and 11a1–1(T) under the Act.[92]

With respect to the general prohibition and exemptions of Section 11(a)(1) and the rules thereunder, the Exchange proposes to adopt new Rule 910NY. The proposed rule states that an ATP Holder must ensure that each of its transactions complies with Section 11(a) of the Act, which generally prohibits an ATP Holder from effecting a transaction trading for a covered account unless a valid exemption in the statute or the rules thereunder applies. The proposed rule further states that, when relying on the exemption set forth in Rule 11a2–2(T) under the Act, a Floor Broker may not enter into the System any order for a covered account, including an order sent to it by an affiliated ATP Holder from off the floor, if the order is for such affiliated ATP Holder's own account, the account of an associated person, or an account over which it or its associated person exercises discretion. In addition, the proposed rule provides that, in cases where a Floor Broker's transaction would occur at the same price as one or more orders on the book, the Floor Broker, if it can rely on no exception other than the exemption in Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder (as discussed in more detail below) must, in addition to complying with the other requirements of such exemption, yield to all orders in the book at the same price if the Floor Broker has no ability to determine that an order in the book is not the order of a non-ATP Holder. Proposed Rule 910NY also states that, where an ATP Holder submits an order to the book (or an order is submitted on its behalf) and such ATP Holder is relying on the G Exemption, the order must be entered as immediate-or-cancel.

The Exchange has represented that it has analyzed its rules proposed

[83] *See* proposed Rule 934.1NY. A ''Facilitation Order'' is an order represented on behalf of an ATP Holder that may be executed in whole or in part in a cross transaction with the ATP Holder's Customer Order and that is clearly designated as a Facilitation Order.

[84] If a trade pursuant to proposed Rule 934.1NY occurs at the Specialist's vocalized bid or offer in its appointed class, the Specialist's guaranteed participation will apply only to the number of contracts remaining after all Customer Orders that trade ahead of the cross transaction and the number of contracts crossed have been satisfied. The Specialist's guaranteed participation will be a percentage that, when combined with the percentage the originating firm crossed, does not exceed 40% of the order. *See* proposed Rule 934.1NY(4)(C).

[85] The proposed rule for At-Risk Crosses applies only to equity options. The minimum eligible order size for an At-Risk Cross is 50 contracts. *See* proposed Rule 934.2NY.

[86] *See, e.g.*, Amex Rule 950–ANTE(d), Commentaries .02–.04; CBOE Rule 6.74; NYSE Arca Rule 6.47.

[87] *See* proposed Rule 934.3NY.

[88] *See* proposed Rule 934.3 (as modified by Amendment No. 1).

[89] *See, e.g.*, Amex Rule 950–ANTE(d), Commentaries .02 and .04.

[90] 15 U.S.C. 78k(a)(1).

[91] 15 U.S.C. 78k(a)(1)(A)–(I).

[92] 17 CFR 240.11a2–2(T) and 240.11a1–1(T).

hereunder, which include proposed Rule 910NY, and has determined that they are consistent with Section 11(a) of the Act and rules thereunder.[93] For the reasons set forth below, the Commission believes that the proposed rules are consistent with the requirements of Section 11(a) of the Act and the rules thereunder.

1. Rule 11a2–2(T)

Rule 11a2–2(T) under the Act,[94] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with the conditions of Rule 11a2–2(T), a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [95] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the rule. The Exchange has requested that the Commission concur with its conclusion that orders for covered accounts entered into the System satisfy the conditions of Rule 11a2–2(T). Rule 11a2–2(T)'s first condition is that orders for covered accounts be transmitted from off the exchange floor. The Exchange represents that orders sent to the System will be transmitted from remote terminals directly to the System by electronic means. In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[96] With respect to such orders transmitted electronically from remote terminals directly to the System, the Commission believes that the System satisfies the off-floor transmission requirement.

The Exchange further represents that there may be instances where an ATP Holder on the physical floor of the Exchange may electronically submit an order for a covered account to the System. The Exchange states that, to rely on the exemption set forth in Rule 11a2–2(T), an ATP Holder must ensure that it sends its orders from off the floor to an unaffiliated ATP Holder on the floor for execution, in addition to meeting the rule's other requirements. If an ATP Holder sends its order from off the floor to an affiliated member that is on the floor, who then directs the order into the System for execution, the off-floor ATP Holder may not rely on the exemption set forth in Rule 11a2–2(T). The Commission believes that, based on the foregoing, those orders for covered accounts sent by ATP Holders to the System for execution from off the Exchange floor satisfy the off-floor transmission requirement for the purposes of the ''effect versus execute'' rule. The Commission notes that an ATP Holder that submits an order for a covered account for execution on the physical floor of the Exchange and who wishes to rely on the exemption in Rule 11a2–2(T) also must submit the order from off the floor.

Second, Rule 11a2–2(T) requires that the member not participate in the execution of its order once the order is transmitted to the floor for execution. The Exchange represents that, upon submission to the System, an order will enter the queue and be executed against another order or quote in the book based on an established matching algorithm. The Exchange states that execution depends not on whether an order is for the account of an ATP Holder, but rather upon what other orders are entered into the System at or around the same time as the subject order, what orders are resident in the book, and where the order is ranked based on, among other criteria, a price-time priority ranking algorithm. As such, the Exchange represents that at no time following the submission of an order to the System is an ATP Holder able to acquire control or influence over the result or timing of an order's execution.[97] Accordingly, the Commission believes that an Exchange member does not participate in the execution of an order submitted into the System. The Commission notes that an ATP Holder that submits an order for a covered account for execution on the physical floor of the Exchange and that wishes to rely on the exemption in Rule 11a2–2(T) is similarly restricted from participating in the execution of such order after the order has been transmitted to the System.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as the System, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the Exchange.[98] The Exchange has represented that the design of the System ensures that ATP Holders do not have any special or unique trading advantages in the handling of their orders after transmission.[99] Based on the Exchange's representations, the Commission believes that the System satisfies this requirement. The Commission notes that, if an ATP Holder submits an order for a covered account for execution on the physical floor of the Exchange, to comply with this requirement of Rule 11a2–2(T), such order would have to be sent to an

[93] *See* Amendment No. 1 at 7.

[94] 17 CFR 240.11a2–2(T).

[95] The member may, however, participate in clearing and settling the transaction.

[96] *See, e.g.*, Securities Exchange Act Release Nos. 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving, among other things, the equity rules of the Boston Stock Exchange (''BSE'')); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving rules governing the trading of options on The NASDAQ Options Market); 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR–BSE–2002–15) (approving the Boston Options Exchange as an options trading facility of BSE); 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (approving the Amex Post Execution Reporting System, the Amex Switching System, the Intermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the PCX Communications and Execution System, and the Philadelphia Stock Exchange Automated Communications and Execution System) (''1979 Release''); and 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (approving NYSE's Designated Order Turnaround System) (''1978 Release'').

[97] *See* Amendment No. 1 at 9. The Commission notes that an ATP Holder may cancel or modify the order, or modify the instructions for executing the order. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. *See* 1978 Release, *id.* (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[98] In considering the operation of automated execution systems operated by an exchange, the Commission noted that while there is no independent executing exchange member, the execution of an order is automatic once it has been transmitted into the systems. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 96.

[99] *See* Amendment No. 1 at 9.

unaffiliated ATP Holder on the Exchange floor.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T).[100] The Exchange recognizes that ATP Holders trading for covered accounts over which they exercise investment discretion must comply with this condition to rely on the rule's exemption.[101] The Exchange represents that it will enforce this requirement pursuant to its obligation under Section 6(b)(1) of the Act to enforce compliance with the federal securities laws.[102]

2. Section 11(a)(1)(G) and Rule 11a1–1(T)

Section 11(a)(1)(G) of the Act provides an additional exemption from the general prohibition set forth in Section 11(a)(1) for any transaction for a member's own account, provided that: (i) Such member is primarily engaged in certain underwriting, distribution, and other activities generally associated with broker-dealers and whose gross income is derived principally from such business and related activities; and (ii) the transaction is effected in compliance with the rules of the Commission, which, as a minimum, assure that the transaction is not inconsistent with the maintenance of fair and orderly markets and yields priority, parity, and precedence in execution to orders for the account of persons who are not members or associated with members of the exchange.[103] In addition, Rule 11a1–1(T) under the Act specifies that a transaction effected on a national securities exchange for the account of a member which meets the requirements of Section 11(a)(1)(G)(i) of the Act is deemed, in accordance with the requirements of Section 11(a)(1)(G)(ii), to be not inconsistent with the maintenance of fair and orderly markets and to yield priority, parity, and precedence in execution to orders for the account of non-members or persons associated with non-members of the exchange, if such transaction is effected in compliance with certain requirements.[104]

Proposed Rule 910NY provides that, in cases where the transaction of an ATP Holder on the physical floor would occur at the same price as one or more orders on the book and where such ATP Holder can rely on no exemption other than the exemption set forth in Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder, such ATP Holder must, in addition to complying with the other requirements of Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder, yield to all orders in the book at the same price, if such ATP Holder cannot determine that an order in the book is not the order of a non-ATP Holder.[105] The Exchange represents that, in such cases, if an ATP Holder seeks to rely on the exemption set forth in Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder for the execution of an order for its own account, such order may be executed only on the physical floor of the Exchange or must be entered into the System as an IOC order.[106] The Commission notes that this exemption is available only for orders for the account of an Exchange member.[107]

D. Complex Orders

The proposed rules also include provisions governing transactions in Complex Orders, which are defined as orders involving the simultaneous purchase and/or sale of two or more different option series having the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (0.333) and less than or equal to three-to-one (3.00), and for the purpose of executing a particular investment strategy.[108] These proposed rules are similar to those the Commission has previously approved for NYSE Arca,[109] and raise no novel or significant issues. The Commission finds that they are consistent with the Act.

The proposed rules also include provisions regarding transactions in NDX or RUT Combination Orders [110] that are virtually identical to current Amex rules governing such transactions that the Commission previously approved.[111] The Commission expects the Exchange to monitor compliance with the requirement in these proposed rules that, at time of the execution of an NDX or RUT combination order, no individual leg of the order trades ahead of the corresponding bid or offer in the NDX or RUT limit order book.

E. Trading Auctions and Trading Halts

The proposed rules on trading auctions and on procedures for halting or suspending trading are closely modeled on similar rules of NYSE Arca that have been previously approved by the Commission,[112] and the Commission believes they are consistent with the Act.

F. Linkage and Routing

The proposed rules relating to the intermarket options linkage (''Linkage'') operated pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage are closely modeled on similar rules of NYSE Arca, which previously have been approved by the Commission.[113] In addition, existing NYSE Alternext Rule 940 (Options Intermarket Linkage) will continue to apply. The proposed rules

[100] 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated person thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 96 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[101] *See* Amendment No. 1 at 10.

[102] *See id.*

[103] *See* 15 U.S.C. 78k(a)(1)(G).

[104] Rule 11a1–1(T)(a)(1)–(3) provides that each of the following requirements must be met: (1) A member must disclose that a bid or offer for its account is for its account to any member with whom such bid or offer is placed or to whom it is communicated, and any member through whom that bid or offer is communicated must disclose to others participating in effecting the order that it is for the account of a member; (2) immediately before executing the order, a member (other than the specialist in such security) presenting any order for the account of a member on the exchange must clearly announce or otherwise indicate to the specialist and to other members then present for the trading in such security on the exchange that he is presenting an order for the account of a member; and (3) notwithstanding rules of priority, parity, and precedence otherwise applicable, any member presenting for execution a bid or offer for its own account or for the account of another member must grant priority to any bid or offer at the same price for the account of a person who is not, or is not associated with, a member, irrespective of the size of any such bid or offer or the time when entered. *See* 17 CFR 240.11a1–1(T)(a)(1)–(3).

[105] *See* proposed Rule 910NY.

[106] *See* Amendment No. 1 at 10.

[107] *See supra* notes 103–104 and accompanying text.

[108] *See* proposed Rule 900.3NY(e).

[109] *See* proposed Rule 963NY(d) (based on NYSE Arca Rule 6.75(e); proposed Rule 963.1NY (based on NYSE Arca Rule 6.75, Commentary 0.1, and NYSE Arca Rule 6.91, Commentaries .01 and .02).

[110] *See* proposed Rule 965NY(b).

[111] *See* Securities Exchange Act Release No. 57384 (February 26, 2008), 73 FR 11688 (March 4, 2008).

[112] *See* proposed Rules 952NY and 953NY (based on NYSE Arca Rules 6.64 and 6.65 respectively).

[113] *See* proposed Rules 990NY–993NY (based on NYSE Arca Rules 6.93–6.96).

relating to a routing broker also are consistent with similar rules of NYSE Arca, which previously have been approved by the Commission.[114]

If an incoming marketable order has not been executed in its entirety on the Exchange and has been designated as an order type that is eligible to be routed away, the order would be routed, either in its entirety or as component orders, for execution to other Market Center(s) displaying the NBBO, either through the Linkage or through a broker-dealer affiliate of the Exchange that acts as an agent for routing orders entered into the System (''Routing Broker''),[115] according to a proprietary algorithm and subject to Exchange rules. Where an order or portion of an order is routed away and is not executed either in whole or in part at the other Market Center, the order upon its return would be ranked and displayed in the book in accordance with its terms.[116] The Exchange's proposed Linkage and routing rules do not raise any novel or substantive issues, and the Commission finds them to be consistent with the Act.

G. Disciplinary Proceedings

Existing Alternext Rules 475, 476, and 477 will continue to govern the Exchange's disciplinary proceedings related to the options trading. Alternext Rule 476A (Imposition of Fines for Minor Violation(s) of Rules) will continue to govern imposition of fines. The Exchange proposes to amend Rule 476A to include options rule violations and their applicable fines that will be in effect after the Options Relocation.

The Commission finds that the disciplinary procedures, as applied to the options trading on the Exchange, are consistent with the Act, in particular Sections 6(b)(6) and 6(b)(7) of the Act.[117] The Commission believes that Rules 475, 476, and 477, as applied to the trading of options on the Exchange, will continue to provide due process for ATP Holders involved in any disciplinary proceeding. The Commission, therefore, believes that these rules will continue to provide the Exchange with the ability to comply, and with the authority to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, consistent with Section 6(b)(1) of the Act.[118] In addition, because Rule 476A as revised by this filing provides procedural rights to contest the fine and permits disciplinary proceedings on the matter, the Commission believes that this rule provides a fair procedure for the disciplining of ATP Holders and persons associated with ATP Holders, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.[119]

Finally, the Commission finds that the proposed changes to Rule 476A are consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[120] which governs minor rule violation plans. The Commission believes that Rule 476A will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

H. Amendment No. 1 and Accelerated Approval

In Amendment No. 1, the Exchange made certain revisions to the proposed rule text and corresponding changes to the Purpose Section of its Form 19b–4 describing the proposed rule change. In particular, Amendment No. 1:

- Revised the definition of Reserve Order in proposed Rule 900.3NY(d)(3) to clarify how the displayed portion of a Reserve Order is refreshed from the reserve size, and to add that, upon entry into the System, a marketable Reserve Order will be executed in whole or in part up to its full size, regardless of the reserve size;
- Eliminated Stock Contingency Orders from the proposed rule change;
- Revised the definitions of certain Contingency Orders and clarified how such orders are held and processed by the System;
- Revised the definition of Tracking Order in proposed Rule 900.3NY(d)(5) to clarify the function of such orders, prohibit an ATP Holder from informing third parties of any terms of such orders, and provide that it is a violation of Rule 935NY for an ATP Holder to enter a Tracking Order for purposes of executing as principal an order it also represents as agent;
- Revised proposed Rule 902NY concerning an ATP Holder's conduct on the Options Trading Floor to add restrictions on possession of NYSE Floor Broker Hand Held Terminals while on the Options Trading Floor;
- Revised the definition of Market Maker to clarify, among other things, that the definition applies to an e-Specialist;
- Revised proposed Rule 934.3NY to add that the eligible order size for the 40% guaranteed participation for solicited orders will be not less than 50 contracts;
- Clarified procedures for routing orders to away market centers and for handling the routed orders that are not executed and are returned to the book;
- Eliminated references to Exchange Official from Rule 970NY as that term is now obsolete;
- Clarified the quoting obligations of a Directed Order Market Maker to state it must provide continuous two-sided quotations throughout the trading day in issues for which it receives Directed Orders for 90% of the time the Exchange is open for trading in each issue;
- Added a new proposed Rule 910NY, which obligates all ATP Holders to ensure that each of their transactions complies with Section 11(a) of the Act;
- Clarified that existing Exchange rules relating to the trading of FLEX Options would continue to apply; and
- Corrected the list of existing Exchange rules that would be superseded by new rules proposed in this filing.

In addition to making certain revisions to the proposed rule text as described above, in Amendment No. 1 the Exchange also made certain representations:

- The Exchange represented that NYSE Alternext US Rule 3(j), which governs the use of material, non-public information, applies to ATP Holders trading on the System. The Exchange also represented that Rule 3(j) requires a Market Maker to maintain information barriers—reasonably designed to prevent the misuse of material, non-public information by such Market Maker—between the Market Maker and any of its affiliates that may act as specialist or market maker in any security underlying the options in which the Market Maker makes a market on the Exchange; and
- The Exchange represented that it had analyzed its rules proposed hereunder, which include proposed Rule 910NY, and had determined that they are consistent with Section 11(a) of the Act and rules thereunder.

The Commission finds good cause, pursuant to Section 19(b)(2) of the

[114] *See* proposed Rule 923NY (based on NYSE Arca Rule 6.35); proposed Rule 964NY(c) (consistent with NYSE Arca Rule 6.76A).

[115] In a separate filing, the Exchange has proposed to use Archipelago Securities LLC as its Routing Broker and described the relationship between the Exchange and the Routing Broker and the conditions related to its operation. The Commission is approving that proposal in a separate action today. *See supra* note 9.

[116] *See* proposed Rule 964NY(c)(2)(E). *See also supra* note 66 and accompanying text.

[117] 15 U.S.C. 78f(b)(6) and 78f(b)(7).

[118] 15 U.S.C. 78f(b)(1).

[119] 15 U.S.C. 78f(b)(7) and 78f(d)(1).

[120] 17 CFR 240.19d–1(c)(2).

Act,[121] for approving the proposal, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of filing of Amendment No. 1 in the **Federal Register**. The changes made by Amendment No. 1 are designed to clarify the proposed rules and do not raise any novel or substantive issues. The proposal has otherwise been subject to a full comment period. Therefore, the Commission believes that good cause exists to approve the amended proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the filing, as modified by Amendment No. 1, 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–NYSEALTR–2008–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEALTR–2008–14. 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 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–NYSEALTR–2008–14 and should be submitted on or before March 27, 2009.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEALTR–2008–14), as amended, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[122]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4778 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[121] 15 U.S.C. 78s(b)(2).

[122] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59473; File No. SR–NYSEALTR–2009–18]

Self-Regulatory Organizations; NYSE Alternext U.S. LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Use Its Broker Dealer Affiliate, Archipelago Securities, LLC, as Its Routing Broker for Options Orders

February 27, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 25, 2009, NYSE Alternext U.S. LLC (''NYSE Alternext'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') 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, and is granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to use its broker dealer affiliate,[3] Archipelago Securities LLC (''ArcaSec''), as its Routing Broker to route options orders[4] to away market centers when that market center is displaying the national best bid and offer, in accordance with Exchange Rules. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to use ArcaSec as its Routing Broker to route options orders to away market centers when that market center is displaying

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On September 29, 2008, the Commission approved the Exchange'sbusiness combination with NYSE Euronext, Inc. (''Merger''). *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (order approving SR–NYSE–2008–60 and SR–Amex–2008–62). Pursuant to the Merger, NYSE Euronext became the overall parent company of the Exchange. NYSE Euronext now operates three self-regulatory entities: The Exchange, the NYSE, and NYSE Arca, Inc. ArcaSec is also a wholly owned subsidiary of NYSE Euronext, and is therefore an affiliate of the Exchange.

[4] ArcaSec acts as the outbound order routing facility of the NYSE andNYSE Arca. *See* Securities Exchange Act Release No. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (SR–PCX–2005–90). *See also* Securities Exchange Act Release Nos. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25); 58681 (September 29, 2008), 73 FR 58285 (October 6, 2008) (order approving SR–NYSEArca-2008–90); 55590 (April 5, 2007), 72 FR 18707 (April 13, 2007) (notice of immediate effectiveness of SR–NYSE–2007–29); and 58680 (September 29, 2008), 73 FR 58283 (October 6, 2008) (order approving SR–NYSE–2008–76).

On November 24, 2008, the Commission also approved ArcaSec to act as the outbound order routing facility for NYSE Alternext for the purpose of routing equities orders to away market centers. Securities Exchange Act Release No. 59009 (November 24, 2008), 73 FR 73363 (December 2, 2008) (SR–NYSEALTR–2008–07).

Currently, FINRA is the examining authority for the Routing Broker designated by the Commission pursuant to Rule 17d–1 of the Act. As such, FINRA is responsible for the oversight and enforcement of the Routing Broker for compliance with the applicable financial responsibility rules.

the national best bid and offer in accordance with Exchange Rules. The Exchange intends to use ArcaSec as its Routing Broker, pending approval, as of the date that the Exchange implements its new electronic trading system in conjunction with the opening of its new options trading floor at 11 Wall Street in New York, New York.

Rule 2B—NYSE Alternext Equities provides, in pertinent part, that: without prior SEC approval, the Exchange or any entity with which it is affiliated shall not, directly or indirectly, acquire or maintain an ownership interest in a member organization.

In its Order approving the acquisition of the American Stock Exchange LLC by NYSE Euronext, the SEC, among other things, approved the affiliation between NYSE Alternext and ArcaSec, subject to certain conditions.[5] The SEC also approved revisions to Rule 2B—NYSE Alternext Equities, in order to address inbound routing by affiliated members.[6] The Exchange also recently received approval to implement Rule 17—NYSE Alternext Equities, which defines the term Routing Broker and establishes the conditions under which the Exchange's Routing Broker operates.[7]

NYSE Alternext Rule 900.1NY—Applicability, Definitions, and References states that, unless otherwise specified or unless the context otherwise requires, the Rules and Policies of the Board of Directors shall be applicable to the trading of option contracts. As a result, Rules 2B and 17, as described above, encompass and apply to the trading of options contracts.

Pursuant to Rule 2B—NYSE Alternext Equities, the Exchange now seeks authorization to use ArcaSec, an affiliated broker-dealer, to operate as its Routing Broker for the purpose of routing options orders to away market centers.[8]

Pursuant to the proposal, the Exchange systems will provide the Routing Broker with routing instructions, to route orders to other market centers and report such executions back to the Exchange. The Routing Broker cannot change the terms of an order or the routing instructions, nor does the Routing Broker have any discretion about where to route an order.

The Routing Broker will operate as a ''facility'' [9] of the Exchange in that it will serve as a ''system of communication to or from'' [10] the Exchange. When an order must be routed to an away market center for execution, the Exchange systems will affix all order handling information to the order. Exchange systems will automatically transmit the order and the relevant order handling information to the Routing Broker. In turn, the Routing Broker will facilitate the delivery of the received order to the destination away market. The Routing Broker will obtain receipts of executions and deliver those receipts of executions back to Exchange systems.[11] The Routing Broker, as merely a conduit or system of communication between the Exchange and away market centers, cannot change the terms of an order, systemically reject an order, or otherwise perform data validation prior to delivery of the order to an away market center or after return receipt and delivery of the execution to the Exchange.

In particular, and without limitation, under the Act, the Exchange will be responsible for filing with the Commission rule changes and fees relating to the functions performed by the Routing Broker for the Exchange and will be subject to exchange non-discrimination requirements.

Furthermore, the books, records, premises, officers, agents, directors, and employees of the Routing Broker, as a facility of the Exchange, shall be deemed to be the books, records, premises, officers, agents, directors, and employees of the Exchange for purposes of, and subject to oversight pursuant to, the Act. The books and records of the Routing Broker as a facility of the Exchange shall be subject at all times to inspection and copying by the Exchange and the Commission.

The use of the Routing Broker to route orders to another market center will be optional. In the event a member organization does not want to use the Routing Broker, it must enter an immediate-or-cancel order or any such other order type available on the Exchange that is not eligible for routing. All bids and offers entered on the Exchange that are routed to other market centers via the Routing Broker which result in an execution shall be binding on the member organization that entered such bid and offer.

The Routing Broker will not engage in any business for the Exchange other than its outbound router and facilitation functions as described above. In the event the Exchange seeks to have the Routing Broker engage in any other activities, it understands that the ability of the Routing Broker to engage in such new business activity would require Commission approval.

The Exchange believes that the above described operation of the Routing Broker will serve as the most economically efficient execution of transactions in options contracts. Furthermore, the Routing Broker is necessary for the Exchange to comply with its Rules and best execution obligations.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5) of the Act [12] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [13] in that it seeks to assure economically efficient execution of securities transactions. Specifically, the proposed rule change will allow the Exchange to establish and implement mechanisms to remain fully compliant with Exchange rules and its best execution obligations.

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.

[5] *See* Securities Exchange Act Release No. 58673, *supra* note 3.

[6] *Id. See also* Securities Exchange Act Release No. 59009, *supra* note 4.

[7] *See* Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (order approving SR–Amex–2008–63).

[8] Presently, ArcaSec does not route options orders directly to awaymarket centers and, as such, will not route options orders directly from NYSE Alternext to any affiliated markets, including NYSE Arca, Inc. Should ArcaSec route orders directly from NYSE Alternext to an affiliated market, it would do so only after the affiliated market has rules approved that authorize it to receive such routed options orders from its broker-dealer affiliate.

[9] The term ''facility'' as defined in Section 3(a)(2) of the Securities Exchange Act of 1934, as amended provides, when used with respect to an exchange includes its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service. *See* 15 U.S.C. 78c.

[10] *Id.*

[11] Comparable to the operation of ArcaSec in its capacity as a facility ofthe NYSE and NYSE Arca, the use of ArcaSec by the Exchange is only available to members of NYSE Alternext.

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78k–1(a)(1).

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. 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–NYSEALTR–2009–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEALTR–2009–18. 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–NYSEALTR–2009–18 and should be submitted on or before March 27, 2009.

IV. Commission's Findings and Order Granting Accelerated Approval of a Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, it is consistent with Section 6(b)(5) of the Act,[15] which requires, among other things, that the rules of a national securities exchange be 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; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

On September 29, 2008, the Commission approved the Exchange's business combination with NYSE Euronext.[16] In conjunction with the Merger, the Exchange proposed to transfer trading from the American Stock Exchange LLC system to a new system based on NYSE's existing system. Accordingly, the Exchange proposed new rules that would govern trading on the Exchange once trading was transferred to the new electronic system.[17] Included in those recently approved rules were NYSE Alternext Equities Rules 13 and 17, which define the term Routing Broker and establish the conditions under which the Exchange's Routing Broker shall operate.[18] The Exchange also proposed, and the Commission approved, the Exchange's use of ArcaSec, an affiliated broker-dealer, as its Routing Broker for the trading of equity orders on its new system.[19] The Exchange recently proposed, and the Commission approved, new rules for the trading of options on its new trading system.[20] In the instant filing, the Exchange proposes to use ArcaSec as its Routing Broker to route options orders to away market centers, in accordance with Exchange rules, as of the date that the Exchange implements its new system.[21]

In the past, the Commission has expressed concern that the affiliation of an exchange with one of its members raises potential conflicts of interest, and the potential for unfair competitive advantage.[22] Although the Commission continues to be concerned about potential unfair competition and conflicts of interest between an exchange's self-regulatory obligations and its commercial interests when the exchange is affiliated with one of its members, the Commission believes that it is consistent with the Act to permit ArcaSec to also provide outbound routing services for options orders to NYSE Alternext, subject to the same conditions that currently apply to ArcaSec providing outbound routing services to the Exchange for equities orders.

NYSE Alternext Equities Rule 17 imposes certain conditions on an Exchange Routing Broker, which would apply to ArcaSec as the Exchange's outbound options order router as they do now in ArcaSec's capacity as the Exchange's outbound equities order router. For example, ArcaSec must: (1) Be a member of a self-regulatory organization unaffiliated with NYSE Alternext that is its designated examining authority; (2) establish and maintain procedures and internal controls reasonably designed to restrict the flow of confidential and proprietary information between NYSE Alternext and its facilities, including ArcaSec, and any other entity; (3) be regulated as a facility of the Exchange;[23] and (4) not engage in any business other than its outbound router function unless

[14] In approving this proposed rule change, the Commission hasconsidered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] *See supra* note 3.

[17] *See* Securities Exchange Act Release No. 58705, *supra* note 7.

[18] *Id.*

[19] *See* Securities Exchange Act Release No. 59009, *supra* note 4.

[20] *See* Securities Exchange Act Release No. 59472 (February 27, 2009) (order approving SR–NYSEALTR–2008–14).

[21] The Commission notes that the Exchange intends to transfer optionstrading to its new system on March 2, 2009. *See* e-mail from Andrew Stevens, Chief Counsel—U.S. Equities & Derivatives, NYSE Euronext, to Jennifer Dodd, Special Counsel, Division of Trading and Markets, Commission, dated February 26, 2009.

[22] *See, e.g.*, Securities Exchange Act Release Nos.58673, *supra* note 3; 54170 (July 18, 2006), 71 FR 42149 (July 25, 2006) (SR–NASDAQ–2006–006) (order approving Nasdaq's proposal to adopt Nasdaq Rule 2140, restricting affiliations between Nasdaq and its members); and 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving the combination of the New York Stock Exchange, Inc. and Archipelago Holdings) at 11255.

[23] The Commission notes that, as a facility of the Exchange, ArcaSec will be subject to Exchange oversight, as well as Commission oversight. Further, the Exchange will be responsible for filing with the Commission proposed rule changes and fees relating to ArcaSec's outbound router function and ArcaSec's outbound router function will be subject to exchange non-discrimination requirements.

otherwise approved by the Commission. Also, the books, records, premises, officers, agents, directors and employees of ArcaSec, as a facility of NYSE Alternext, will be deemed to be those of the Exchange for purposes of and subject to oversight pursuant to the Act.[24] In addition, use of ArcaSec to route options orders from NYSE Alternext to away market centers is optional, and a NYSE Alternext member is free to route orders to other market centers through alternative means. The Commission also notes that ArcaSec will not route options orders to any affiliated market, unless such market has in place rules that authorize it to receive such routed options orders from its broker-dealer affiliate.[25]

In light of the protections discussed above and contained in NYSE Alternext Equities Rule 17, the Commission believes that it is consistent with the Act to permit NYSE Alternext to use its affiliate, ArcaSec, as its Routing Broker, as proposed.

NYSE Alternext has asked the Commission to accelerate approval of the proposed rule change. NYSE Alternext states that accelerated approval ''will permit the Exchange to establish and implement mechanisms to remain fully compliant with its best execution obligations and other Exchange rules immediately upon implementation of its new electronic trading system and in conjunction with the opening of its new trading floor at 11 Wall Street.'' [26] NYSE Alternext notes that it ''intends to implement its new trading system and open its new trading floor on February 9, 2009.'' [27] The Commission finds good cause for approving the proposed rule change before the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that NYSE Alternext's proposal to use ArcaSec as its outbound order routing facility is consistent with prior Commission action.[28] Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[29] to approve the proposed rule change on an accelerated basis.

[24] *See* NYSE Alternext Equities Rule 17(b). In addition, the books and records of ArcaSec, as a facility of the Exchange, will be subject at all times to inspection and copying by the Exchange and the Commission. *Id.*

[25] *See supra* note 8.

[26] *See* SR–NYSEALTR–2009–18, Item 7.

[27] *Id.*

[28] *See, e.g.*, Securities Exchange Act Release Nos.52497, 55590, and 59009, *supra* note 4.

[29] 15 U.S.C. 78s(b)(2).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEALTR–2009–18) is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4779 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59481; File No. SR–NYSEALTR–2009–20]

Self-Regulatory Organizations; NYSE Alternext US, LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Amending Its Schedule of Fees and Charges for Exchange Services

March 2, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on February 27, 2009, NYSE Alternext US LLC (''NYSE Amex Options'' 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 prepared by the self-regulatory organization. On March 2, 2009, 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 and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges for Exchange Services. The text of the new Schedule is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the existing Fee Schedule in order to reduce the Linkage Fee rates that are currently applied from $0.60 to $0.50. The proposed $0.50 fee will match the $0.50 fee charged to Broker Dealers executing electronic orders on the Exchange. All Linkage orders executed on the Exchange will be executed electronically. Absent this filing, orders that access the Exchange via Linkage will be charged more than similar electronic transactions on the Exchange.

The Exchange plans to implement the new Fee Schedule on the first day of trading on the new NYSE Amex Options trading floor at 11 Wall Street, currently scheduled for March 2, 2009.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[3] in general, and Section 6(b)(4),[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities for the purpose of executing Linkage orders that are routed to the Exchange from other market centers. This proposal decreases the Linkage Fee for Users. Absent this filing, orders that access the Exchange via Linkage will be charged more than similar electronic transactions executed on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

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. 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–NYSEALTR–2009–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEALTR–2009–20. 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 Section, 100 F Street, NE., Washington, DC 20549–1090 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at NYSE Amex Options' principal office and on its Internet Web site at *http://www.nyse.com*. 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–NYSEALTR–2009–20 and should be submitted on or before March 27, 2009.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirement of the Act and the rules and regulations thereunder applicable to a national securities exchange [5] and, in particular, with the requirements of Section 6(b) of the Act.[6] In particular, the Commission finds that the Exchange's proposal is consistent with Section 6(b)(4) of the Act,[7] which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Commission notes that the proposal conforms Linkage Fees to those fees charged on other electronic broker-dealer executions.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[8] for approving the proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission notes that this proposed rule change seeks to lower the Linkage Fees from $0.60 to $0.50 to match the $0.50 fee charged to Broker Dealers executing electronic orders on the Exchange. Absent this filing, orders that access the Exchange via Linkage will be charged more than similar electronic transactions executed on the Exchange.[9] Further, this proposed fee structure is similar to that of NYSE Arca Options.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [10] that the proposed rule change (SR–NYSEALTR–2009–20), as amended by Amendment No. 1, is hereby approved on an accelerated basis to be effective on March 2, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4777 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[5] In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(2).

[9] *See* SR–NYSEALTR–2009–19.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59478; File No. SR–NYSEALTR–2009–19]

Self-Regulatory Organizations; NYSE Alternext US, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Schedule of Fees and Charges for Exchange Services

February 27, 2009.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 27, 2009, NYSE Alternext US, LLC (''NYSE Amex Options'', ''NYSE Amex'', or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges for Exchange Services. The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries,

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with the migration of the NYSE Amex Options trading floor from 86 Trinity Place to the NYSE facility at 11 Wall Street, NYSE Amex Options is proposing to introduce a new Schedule of Fees and Charges for Exchange Services (''Fee Schedule''). The new Fee Schedule will become operative on the first day of trading on the new NYSE Amex Options trading floor at 11 Wall Street, currently scheduled for March 2, 2009. The Exchange proposes deleting the current NYSE Amex Options Price List in its entirety and replacing it with the Fee Schedule. The proposed fees are generally lower than the current charges, and are allocated equitably to all similarly situated members. A more detailed description of the proposed changes follows.

ATP Trading Participant Rights

The Exchange proposes charging Floor Brokers, Order Routing firms and Clearing firms $500.00 per month for trading rights on NYSE Amex Options. Prior to the merger with NYSE Euronext on October 1, 2008, participation charges on the American Stock Exchange (''Amex'') were based on the cost of a seat membership or seat lease plus additional fees for electronic access and/or access to the trading floor. The Exchange proposes significant reductions to the previous charges for participation. Market Makers will be charged $1,000.00 per month based on the maximum number of ATPs held by an ATP Holder during the calendar month. The Exchange also proposes charging $125.00 per month for all registered floor personnel that do not pay an ATP fee. Specialists, e-Specialists, and Directed Order Market Makers (''DOMM'') will be charged a monthly fee ranging from $150.00 to $3000.00 based on the average number of national daily customer contracts executed and prorated according to Specialist, e-Specialist and DOMM volumes in that issue.

Options Issue Transfer Fee

The Exchange proposes charging $100.00 per issue charged to the Specialist that transfers an issue to another Specialist.

Options Orientation Fee

The Exchange proposes a $500.00 Options Orientation Fee. This fee covers the full background investigation, disclosure review, and fingerprinting fee for each individual applicant, along with the administration and maintenance costs associated with the qualification exams.

Registration Fees

The Exchange proposes only presentation changes to the Registration Fees section of the Fee Schedule. All fees in this section are identical to the fees currently charged and posted on the NYSE Amex Options Price List. Registration fees will continue to be waived through June 30, 2009 for NYSE member organizations that automatically became member organizations of NYSE Alternext U.S. by operation of NYSE Alternext Equities Rule 2 at the time of relocation of all NYSE Alternext equities trading to the to the NYSE trading facilities and systems located at 11 Wall Street.

DEA Fees

The Exchange proposes the following fees for firms for which the Exchange is the Designated Examining Authority (''DEA''). A $1,000 monthly fee charged to clearing firms engaging in a public business. An exemption from this fee will be granted to any NYSE Amex Options registered Floor Broker or Market Maker that effects at least 25% of all options transactions, as measured in contract volume, on any options trading facility of NYSE Alternext US, LLC. The Exchange proposes charging $275.00 per quarter to firms not engaging in a public business, and $250.00 annually per trader. An exemption from the $250.00 annual fee per trader will be granted to any NYSE Amex Options registered Floor Broker or Market Maker that effects [0]at least 25% of all options transactions, as measured in contract volume, on any options trading facility of NYSE Alternext US, LLC. The Exchange also proposes a new Regulatory Fee of $100 charged annually for FOCUS filings to ATP Firms for which the Exchange is the DEA. Previously, the Exchange based its DEA fees on a complicated calculation that charged $.00040 per dollar gross per quarterly or annual FOCUS report. The Exchange believes this new DEA fee structure significantly simplifies the existing fee structure.

Statutory Disqualification Fees

The Exchange proposes a $2,000 fee for applications resulting in statutory disqualification proceedings.

Trade Related Charges

Options per contract transaction charges will reflect the following rate schedule:

Order type	Rate per contract
Specialists, eSpecialists	$0.10
NYSE Amex Options Market Maker—Non Directed	0.17
NYSE Amex Options Market Maker—Directed	0.15
Broker Dealer & Firm Electronic	0.50
Broker Dealer & Firm Manual	0.26
Non BD Customer Electronic	0.00
Non BD Customer Manual	0.00
Firm Facilitation—Manual	0.15

The Firm Facilitation fee applies to any transaction involving a firm proprietary trading account, that has a customer of that same Firm on the contra side of the transaction.

At this time the Exchange will not charge a cancellation fee. The Exchange intends to charge a cancellation fee in the future via a separate rule filing.

The Exchange proposes a limit of fees on options strategy executions. A $750 cap will be applied on transaction fees for strategy executions involving (a) reversals and conversions, (b) dividend spreads, (c) box spreads, (d) short stock interest spreads, and (e) merger spreads. The cap applies to each Strategy Execution executed on the same trading day in the same option class. Transaction fees for strategy executions are further capped at $25,000.00 per month per initiating firm. All Royalty Fees associated with strategy executions on index and exchange traded funds will be passed through to trading participants on the strategy executions on a pro-rata basis. These Royalty Fees will not be included in the calculation of the $750 per trade cap or the $25,000 per month strategy fee cap.

The Exchange proposes a Marketing Charge of $0.65 per contract side on transactions in non Penny Pilot issues where Market Makers trade against all electronic customer orders, and $0.25 per contract side on transactions in Penny Pilot issues where Market Makers trade against all electronic customer orders. This fee is collected only on electronic customer orders that are executed against a market maker on the contra side. This fee represents a pass-through fee for payment for order flow. The Exchange collects the Marketing Fee from the ATP Holder and passes it through to the Specialist, e-Specialist, or Directed Market Maker for distribution to order flow providers.

The Exchange proposes Royalty Fees reflected in the following schedule:

MNX, NDX	$0.16
Russell 2000 Index (RUT)	0.15
ISE FX—Foreign Currency Options (BPX, CDD, EUI, YUK, AUX, SFC).	0.10
All other premium products, ETFs	0.00

Royalty Fees will be assessed on a per contract basis for firm, broker/dealer, and Market Maker transactions. Customer volumes will not be subject to any royalty fees, license fees or premium product fees of any type. These fees will not be assessed on the customer side of transactions. Royalty Fees apply to Linkage Orders except for Satisfaction Orders.

Floor and Equipment Fees

The Exchange proposes charging a Floor Broker Hand Held fee of $450.00 per device per month. Hand Held devices are used by Floor Brokers in open outcry trading for order entry and order management.

The Exchange proposes charging a Floor Market Maker Podium Fee of $90.00 per Podium per month for each Market Maker. A Podium is a table top space provided to a Market Maker on the floor.

The Exchange proposes a Floor Booth fee of $150.00 per month. Floor Booths are designated space used by Floor Brokers. Previously, an annual fee of $3,500.00 was charged for a Regular Floor Booth, $4,500.00 for a Standard Floor Booth, $6,000 for a Large Floor Booth, and $7,000.00 for a Machine Floor Booth.

The Exchange proposes charging a Telephone Service Charge of $0.16 on toll calls billed by vendor of less than $0.69, and $0.26 on toll calls of greater than or equal to $0.69.

The Exchange proposes a Cellular Phone fee of $20.00 per month plus the cost of the calling plan of the user's choice.

The Exchange proposes a Booth Telephone System Line Charge of $33.33 per phone number per month, and a $10.75 charge per month for a single line phone jack and data jack.

Connectivity Charges

The Exchange proposes Transport Charges of $150 per month per floor participant connection as required. This fee will be capped at $500 per month per floor broker firm. The Transport Charge is designed to cover the cost to the Exchange for installing network cabling and rack space for outside data lines, along with the costs of maintaining the data center and hub for the Exchange floor.

The Exchange proposes a Login Fee of $150 per month per Exchange sponsored broker dealer entry system. The Login Fee is designed to cover the cost per login charged by data vendors for access to the Floor Broker order capture system.

Report Fees

The Exchange proposes a User Activity Extract Fee of $0.0075 per trade for clearing data. This fee is in addition to any report development and set-up costs. The Exchange also proposes a $500 per month Online Data Extract fee that allows unlimited access and downloads of clearing data.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(4), in particular, in that it provides for the equitable allocation of dues, fees and other charges among its members and other market participants that use the trading facilities of NYSE Amex Options. Under this proposal, all similarly situated members and other Exchange participants of NYSE Amex Options will be charged the same reasonable dues, fees and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act and SEC Rule 19b–4(f)(2) thereunder in that it establishes or changes a due, fee, or other charge imposed only on members by the self-regulatory organization.

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–NYSEALTR–2009–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEALTR–2009–19. 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 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–NYSEALTR–2009–19 and should be submitted on or before March 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4785 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59459; File No. SR–NYSEArca–2009–12]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to SPDR Barclays Capital Convertible Bond ETF

February 26, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 18, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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, through its wholly-owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'' or ''Corporation''), proposes to list and trade shares of the following exchange-traded fund: SPDR® Barclays Capital Convertible Bond ETF. The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the shares (''Shares'') of the following fund under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units (''Units''): [3] SPDR® Barclays Capital Convertible Bond ETF (the ''Fund'').[4]

According to the Fund's Registration Statement, the Fund's investment objective is to provide investment results that, before fees and expenses, correspond generally to the price and yield performance of the Barclays Capital U.S. Convertible Bond $500MM Index (the ''Index''), which aims to track the performance of the U.S. dollar-denominated convertibles markets with outstanding issue sizes greater than $500 million. The Index includes the following major classes of convertible securities—cash pay bonds, zero-coupon/Original Issue Discount bonds, preferred securities, and mandatories.

The Fund uses a passive management strategy designed to track the price and yield performance of the Index. According to the Registration Statement, the Index represents the market of U.S. convertible bonds. As of December 31, 2008, there were 156 issues included in the Index. Convertible bonds are bonds that can be exchanged, at the option of the holder, for a specific number of shares of the issuer's preferred stock or common stock.

The Exchange is submitting this proposed rule change because the Index does not meet all of the ''generic'' listing requirements of Commentary .03 to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of Units based on an index or portfolio of component securities representing the U.S. equity market, the international equity market, and the fixed income market.[5] The Index includes U.S. convertible bonds and convertible preferred equity securities. The Index components consisting of U.S. convertible bonds separately meet the criteria set forth in Commentary .02(a) of Rule 5.2(j)(3) applicable to Units based on a fixed income index or portfolio. However, the Index components consisting of convertible preferred stocks do not separately meet the criteria set forth in Commentary .01(a) of Rule 5.2(j)(3) applicable to Units based on U.S. indexes or portfolios. As of November 30, 2008, 20.94% of the Index weight consisted of convertible preferred stocks. The Index does not meet the requirements of Commentary .01(a)(A)(2) in that convertible preferred stocks accounting for 78.56% of the weight of the convertible preferred portion of the Index each had a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares, as of November 30, 2008.[6] In addition, the Index does not meet the requirements of Commentary .01(a)(A)(5) in that six of the 31 convertible preferred stocks in the Index as of November 30, 2008 are not listed on a national securities exchange.[7] The Exchange represents that (1) except for Commentary .01(a)(A)(2) and .01(a)(A)(5) to Rule 5.2(j)(3), the Shares currently satisfy all other of the generic listing standards under Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to Units shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3 [8] under the Act for the initial and continued listing of the Shares.

The Exchange notes that, notwithstanding the fact that the Index does not satisfy all criteria of Rule 5.2(j)(3)(A) applicable to U.S. equity indexes, the Index components include issues with substantial market capitalization. As noted above, the Index aims to track the performance of the U.S. convertibles markets with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). *See* NYSE Arca Equities Rule 5.2(j)(3)(A).

[4] *See* the Registration Statement on Form N–1A of the SPDR Series Trust, dated January 15, 2009 (File Nos. 333–57793 and 811–08839) (the ''Registration Statement'').

[5] Commentary .03 to Rule 5.2(j)(3) provides that the Corporation may list a series of Units based on a combination of indexes or a portfolio of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market for listing and trading pursuant to Rule 19b–4(e) under the Securities Exchange Act of 1934 (''Act'') provided each index or portfolio of equity and fixed income component securities separately meet either the criteria set forth in Commentary .01(a) of Rule 5.2(j)(3) (applicable to Units based on U.S., international or global equity indexes or portfolios) or Commentary .02(a) (applicable to Units based on a fixed income index or portfolio).

[6] Commentary .01(a)(A)(2) to NYSE Arca Equities Rule 5.2(j)(3) provides that component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares.

[7] Commentary .01(a)(A)(5) to NYSE Arca Equities Rule 5.2(j)(3) provides that all securities in the Index or portfolio shall be US Component Stocks, as defined in Rule 5.2(j)(3) listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of regulation NMS under the Act. The Index does not include non-U.S. securities. As of November 30, 2008, six convertible preferred securities in the Index, accounting for 8% of the Index weight, were traded over-the-counter.

[8] 17 CFR 240.10A–3.

outstanding issue sizes greater than $500 million, and Index components representing 97.24% of the Index weight had a market capitalization of $100 million or more as of November 30, 2008. In addition, convertible preferred stocks have certain characteristics of fixed income securities (*e.g.*, pricing influenced by changes in interest rates). The Exchange notes that the provisions in Rule 5.2(j)(3), Commentary .02(a) applicable to Units based on fixed income indexes include a requirement relating to minimum principal amount outstanding, but not a requirement of minimum trading volume.[9] The Exchange believes that market capitalization is an appropriate measure of liquidity for such issues. Finally, with respect to the six convertible preferred stocks in the Index that are not exchange-listed, the Exchange notes that the parent companies for these issues are listed on the New York Stock Exchange.

Detailed descriptions of the Fund, the Underlying Index, procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Fund (*http://www.SPDRETFs.com*), as applicable.

In addition, the Exchange represents that the Shares will comply with all other requirements applicable to Units including, but not limited to, requirements relating to the dissemination of key information such as the Index value and Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, firewalls and Information Bulletin to ETP Holders, as set forth in prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.[10]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[11] of the Act in general and furthers the objectives of Section 6(b)(5)[12] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, 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 an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2009–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–12. 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 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–2009–12 and should be submitted on or before March 27, 2009.

[9] Rule 5.2(j)(3), Commentary .02(a)(2) provides that components that in the aggregate account for at least 75% of the weight of the index or portfolio each have a minimum original principal amount outstanding of $100 million or more. As noted above, Index components representing 97.24% of the Index weight had a market capitalization of $100 million or more as of November 30, 2008. The Exchange also notes that, in its proposed rule change proposing to adopt Commentary .02 to Rule 5.2(j)(3) (generic listing requirements for Units based on fixed income indexes), the Exchange represented that the provisions of Commentary .02 ''would not require a minimum trading volume, due to the lower trading volume that generally occurs in the fixed income markets as compared to the equity markets.'' *See* Securities Exchange Release No. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36).

[10] *See, e.g.*, Securities Exchange Act Release No. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36) (order approving generic listing standards for Units based on fixed income indexes); Securities Exchange Act Release No. 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); Securities Exchange Act Release No. 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of Units).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] E-mail from Sudhir Bhattacharyya, Vice President, NYSE Euronext, to Brian O'Neill, Attorney, Division of Trading and Markets, Commission, dated February 26, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4755 Filed 3–5–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59471; File No. SR–NYSEArca–2009–13]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Listing and Trading of Shares of the iShares® MSCI All Peru Index Fund

February 27, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 20, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. NYSE Arca filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE Arca proposes to list and trade shares (''Shares'') of the iShares® MSCI All Peru Index Fund (''Fund''). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the following fund under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units (''ICUs''):[5] iShares® MSCI All Peru Index Fund.[6] According to the Registration Statement, the Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the MSCI All Peru Index (the ''Index''). The Index is sponsored by MSCI, Inc., the Index Provider, that is independent of the Fund and Barclays Global Fund Advisors, the investment adviser to the Fund. The Index Provider determines the composition and relative weightings of the securities in the Index and publishes information regarding the market value of the Index. The Index is a free float-adjusted market capitalization index designed to measure the performance of the ''Broad Peru Equity Universe.'' MSCI defines the Broad Peru Equity Universe by identifying Peruvian equity securities that are classified in Peru according to the MSCI Global Investable Market Indices Methodology (a methodology employed by MSCI to construct its Global Investable Market Indices, which classifies eligible securities according to their country of listing) as well as securities of companies that are headquartered in Peru and have the majority of their operations based in Peru. As of August 31, 2008, the Index's three largest constituents were Cia Minera Milpo SAA, Credicorp Ltd., and Southern Copper Corporation.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the ''generic'' listing requirements of Commentary .01(a)(B) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on international or global indexes. The Index meets all such requirements except for those set forth in Commentary .01(a)(B)(2).[7] The Exchange represents that: (1) Except for the requirement under Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) that component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares, the Shares of the Fund currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to ICUs shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3[8] under the Act[9] for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to ICUs including, but not limited to, requirements relating to the dissemination of key information such as the Index value and Intraday Indicative Value, the rules governing the trading of equity securities, trading hours, trading halts, surveillance,[10], and the Information Bulletin to ETP Holders, as set forth in Exchange rules applicable to ICUs and in prior Commission orders approving the generic listing rules applicable to the listing and trading of ICUs.[11] Detailed descriptions of the

[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)(6).

[5] An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). *See* NYSE Arca Equities Rule 5.2(j)(3)(A).

[6] *See* the Trust's Registration Statement for the Fund on Form N–1A, dated October 6, 2008 (File Nos. 333–92935 and 811–09729).

[7] The Exchange states that the Index fails to meet the requirement of Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) that component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum monthly trading volume of at least 250,000 shares. The Exchange states that, as of January 30, 2009 component stocks that in the aggregate account for 89.12% of the Index weight had a minimum monthly trading volume of at least 250,000 shares.

[8] 17 CFR 240.10A–3.

[9] 15 U.S.C. 78a.

[10] The Exchange may obtain information for surveillance purposes via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members of ISG. The Exchange notes that the Index component stocks do not trade on markets that are ISG members and the Exchange does not have a comprehensive surveillance agreement with such markets. For a list of the current members of ISG, *see www.isgportal.org*.

[11] *See, e.g.*, Securities Exchange Act Release Nos. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR–NYSEArca–2006–86) (order approving generic listing standards for ICUs based on international or global indexes); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for ICUs and Portfolio Depositary Receipts); and 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999)

Fund, the Index, the Index Provider, procedures for creating and redeeming Shares, transaction fees and expenses, risks, dividends, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Trust's Registration Statement or on the Web site for the Fund (*http://www.ishares.com*), as applicable.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,[12] in that it is designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will allow the listing and trading of the Fund on the Exchange, which the Exchange believes will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[13] of the Act and subparagraph (f)(6) of Rule 19b–4[14] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can list and trade the Shares immediately. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. NYSE Arca believes that the proposed rule change is non-controversial in that the Index for the Fund fails to meet the requirements set forth in Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) by only a small amount (0.88%) and the Shares of the Fund currently satisfy all of the other applicable generic listing standards under NYSE Arca Equities Rule 5.2(j)(3) and all other requirements applicable to ICUs, as set forth in Exchange rules and prior Commission orders approving the generic listing rules applicable to the listing and trading of ICUs. In addition, the Exchange believes that it has developed adequate trading rules, procedures, surveillance programs, and listing standards for the continued listing and trading of the Shares.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] Given that the Shares comply with all of the NYSE Arca Equities generic listing standards for ICUs (except for narrowly missing the requirement relating to minimum worldwide monthly trading volume of stocks composing 90% of the Index), the listing and trading of the Shares by NYSE Arca does not appear to present any novel or significant regulatory issues or impose any significant burden on competition. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2009–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

(SR–PCX–98–29) (order approving rules for listing and trading of ICUs).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled the five business-day pre-filing requirement.

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–13 and should be submitted on or before March 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4768 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59464; File No. SR–NYSE–2006–92]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 4, To Amend NYSE Rule 452 and Listed Company Manual Section 402.08 To Eliminate Broker Discretionary Voting for the Election of Directors and Codify Two Previously Published Interpretations That Do Not Permit Broker Discretionary Votes for Material Amendments to Investment Advisory Contracts

February 26, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2006, the New York Stock Exchange LLC (''Exchange'' or ''NYSE'') 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 self-regulatory organization. On May 23, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. On June 28, 2007, the Exchange filed Amendment No. 2 to the proposed rule change. On February 26, 2009, the Exchange filed and withdrew Amendment No. 3 to the proposed rule change. On February 26, 2009, the Exchange filed Amendment No. 4.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 4, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to amend NYSE Rule 452 to eliminate broker discretionary voting for the election of directors. Rule 452, titled *Giving Proxies by Member Organizations*, allows brokers to vote on ''routine'' proposals if the beneficial owner of the stock has not provided specific voting instructions to the broker at least 10 days before a scheduled meeting. The proposed amendment will be applicable to proxy voting for shareholder meetings held on or after January 1, 2010. Notwithstanding the foregoing, in the event the proposed amendment is not approved by the Commission until after August 31, 2009, the effective date shall be delayed to a date which is at least four months after the approval date, and which does not fall within the first six months of the calendar year. In addition, in any case the proposed amendment will not apply to a meeting that was originally scheduled to be held prior to the effective date but was properly adjourned to date on or after the effective date.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B and C below. The NYSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE is proposing to amend NYSE Rule 452 to eliminate broker discretionary voting for the election of directors. Rule 452, titled *Giving Proxies by Member Organizations*, allows brokers to vote on ''routine'' proposals if the beneficial owner of the stock has not provided specific voting instructions to the broker at least 10 days before a scheduled meeting. The proposed amendment will be applicable to proxy voting for shareholder meetings held on or after January 1, 2010. Notwithstanding the foregoing, in the event the proposed amendment is not approved by the Commission until after August, 31, 2009, the effective date shall be delayed to a date which is at least four months after the approval date, and which does not fall within the first six months of the calendar year. In addition, in any case the proposed amendment will not apply to a meeting that was originally scheduled to be held prior to the effective date but was properly adjourned to a date on or after the effective date.

The NYSE originally filed these proposed amendments on October 24, 2006. The first amendment to the rule filing was filed on May 23, 2007. The most significant difference being proposed in that amendment was to provide that the proposed amendment to Rule 452 is not applicable to companies registered under the Investment Company Act of 1940. The second amendment to the rule filing was filed on June 27, 2007 [*sic*].[5] It reflected minor SEC staff comments to Amendment No. 1 and added another non-routine item to the list enumerated in Rule 452.11 relating to amendments to investment contracts. That proposed change codified a NYSE interpretation that was published in 1992. This amendment is being filed to update the provision regarding the effective date and to reflect minor SEC staff comments on Amendment No. 2. Amendment No. 3 was withdrawn for technical reasons.

Current Requirements of NYSE Rule 452

Under the current NYSE and SEC proxy rules, brokers must deliver proxy materials to beneficial owners and request voting instructions in return. If voting instructions have not been received by the tenth day preceding the meeting date, Rule 452 provides that brokers may vote on certain matters deemed ''routine'' by the NYSE. One of the most important results of broker votes of uninstructed shares is their use in establishing a quorum at shareholder meetings.

Among the other matters which the current NYSE Rule 452 treats as routine is an ''uncontested'' election for a

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 4 supersedes and replaces the Exchange's original Form 19b–4 and Amendment Nos. 1 and 2.

[4] The Commission notes that the proposal also codifies two previously published interpretations that do not permit broker votes for material amendments to investment advisory contracts. *See infra* notes 10–11 and accompanying text.

[5] The Commission notes that the Exchange filed Amendment No. 2 on June 28, 2007.

company's board of directors.[6] Such elections remain the general practice in corporate America today, with contested elections occurring relatively infrequently. According to ADP, there were only thirty-four officially contested elections in calendar year 2004.

However in recent years the definition of a ''contested election'' has been questioned by a number of parties and interest groups.[7] This is because of the rise of a number of new types of proxy campaigns, including ''just vote no'' campaigns. Because these campaigns often do not result in competing solicitations, historically these efforts have not been considered ''contests'' for purposes of NYSE Rule 452, and thus broker votes have been counted. This has drawn the ire of some investor groups since generally brokers vote uninstructed shares in accordance with the incumbent board's recommendations.

On ''non-routine'' matters, which generally speaking are those involving a contest or any matter which may affect substantially the rights or privileges of stockholders, NYSE rules prohibit brokers from voting without receiving instructions from the beneficial owners. At present, the NYSE Rule 452.11 lists by way of example eighteen such ''non-routine'' matters, including items such as stockholder proposals opposed by management, and mergers or consolidations.

NYSE Proxy Working Group

The Proxy Working Group was created by the NYSE in April 2005 to review the NYSE rules regulating the proxy voting process, and more specifically to review and make recommendations with respect to NYSE Rules 450–460 (with a particular focus on Rule 452) and 465. In creating the Working Group, the NYSE sought to obtain a wide diversity of views as well as a broad range of expertise. As a result, the Working Group contains representatives from a number of different constituencies, all of whom have significant experience with the proxy voting process.

In June 2006, the Proxy Working Group prepared a draft report and a series of recommendations relating to their findings. In this report, the Proxy Working Group expressed its belief that the election of directors should no longer be viewed as routine under Rule 452 and thus that brokers should no longer be permitted to cast uninstructed shares for the election of directors.

The Proxy Working Group report notes that this proposed change could significantly impact the director election process. For example, it is likely to increase the costs of uncontested elections, as issuers will have to spend more money and effort to reach shareholders who previously did not vote. These costs may increase substantially with the rise of majority voting for directors, as issuers have to obtain the votes from shareholders who may not realize that their failure to vote constitutes a ''no'' vote. Such a change may also increase the influence of special interest groups or others with a particular agenda to challenge an incumbent board, at the expense of smaller shareholders. These consequences could fall most dramatically on smaller issuers, who have a smaller proportion of institutional investors and/or have greater difficulty in contacting shareholders and convincing them to vote in uncontested elections.

Despite these potential difficulties, the Proxy Working Group stated in its report that it is important to recognize that the election of a director, even where the election is uncontested, is not a routine event in the life of a corporation. While this is likely to result in some greater costs and difficulties for issuers, it is a cost required to be paid for better corporate governance and transparency of the election process.

Following the issuance of the draft Proxy Working Group Report, in June 2006, the NYSE circulated the report to its listed companies and certain other entities and asked for comment on all of the proposed recommendations. The NYSE received approximately 46 comment letters or emails on the proposed recommendations; 39 of these letters related to amending Rule 452 to make the election of directors a non-routine matter. 15 of these comment letters strongly supported the proposed change to Rule 452, 8 letters expressed the view that the SEC should undertake an extensive review of shareholder communications before Rule 452 is amended, and 16 letters expressed concern regarding the proposed amendment. Among the primary concerns expressed with respect to the proposed amendment to Rule 452 was the potential difficulty in obtaining a quorum in uncontested elections without the use of the broker discretionary vote pursuant to existing Rule 452. This issue was raised by a number of operating companies, especially representatives of small and mid-size companies.

The investment company community raised similar issues, emphasizing the cost and difficulties of obtaining a quorum as well as general problems in getting fund shareholders to vote.[8] In addition, the investment companies emphasized the different and unique regulatory and statutory regime governing their actions, which provides additional protections to investors. The Investment Company Institute (''ICI'') provided detailed information to the Proxy Working Group, including analyses about the additional costs that would be incurred by investment companies if such companies would not be allowed to count broker-votes in uncontested elections for directors, as well as the different shareholder profiles of investment companies and operating companies, and the differing regulatory regimes of investment companies.[9]

These issues were discussed at length by and among the members of the Proxy Working Group. In particular, the Proxy Working Group considered the heightened problems that investment companies face because of their disproportionately large retail shareholder base. In addition, the Proxy Working Group reviewed the types of issues often presented to shareholders of investment companies, and noted that such companies often do not include other ''routine'' matters on their ballot,

[6] Rule 452.11(2) defines a ''contest'' as a matter that ''is the subject of a counter-solicitation, or is part of a proposal made by a stockholder which is being opposed by management.''

[7] For example, in 2002, the Council of Institutional Investors publicly criticized in the media the NYSE's definition of ''contests'' as ''problematic'' because it fails to classify as contests ''just vote no'' campaigns, it fails to recognize the use of the Internet as a means of contesting management, it puts ADP in an inappropriate and conflicted role, and it is inconsistent with securities laws which recognize the validity of exempt solicitations. In a letter to the SEC dated June 13, 2003, Institutional Shareholders Services expressed concern that because ''the NYSE classifies the election of directors as a routine voting item unless a full-blown proxy contest has erupted,'' the efforts of shareholders to express disapproval of board actions at companies like Sprint and Tyco in the 2003 proxy season were ''watered down by broker votes.'' Moreover, in their presentations to the Working Group, several groups recommended that the definition of a contest be expanded or changed, including the AFL–CIO and the American Business Conference.

[8] The ICI submitted a report to the Proxy Working Group titled ''Costs of Eliminating Discretionary Broker Voting on Uncontested Elections of Investment Company Directors,'' which found, among other things, that if ''discretionary broker voting is eliminated, typical proxy costs [for investment companies] are estimated to more than double'' and that therefore ''fund expense ratios could rise by approximately 1 to 2 basis points owing to higher proxy costs''.

[9] The ICI Report made the point that eliminating discretionary broker voting will have a disproportionate impact on funds as compared to operating companies because funds have a higher proportion of retail investors. The Report also noted that funds already have a high number of re-solicitations and adjournments of shareholder meetings when there are non-routine items on the agenda.

which would allow broker discretionary voting for quorum purposes.

The Proxy Working Group reviewed the materials submitted by the ICI and other representatives of investment companies concerning the difficulties such companies would have if they were subject to the amendment to Rule 452 making director elections ''non-routine.'' Additionally, the Proxy Working Group reviewed and considered the fact that investment companies are subject to regulation under the Investment Company Act of 1940 (which also regulates shareholder participation in key decisions affecting such regulated funds), while operating companies are not subject to this Act.

The Proxy Working Group also had a number of discussions about the difficulties faced by smaller issuers, and recognizes that smaller issuers may be subject to some of the very same problems that investment companies are subject to, including a high percentage of shares held by ''retail'' investors, and an increased cost in obtaining a quorum as a result of the proposed changes to Rule 452. There was considerable concern and discussion about the potential problems facing smaller issuers as a result of the potential rule change, as well as discussion about the similarities and differences between smaller operating companies and investment companies.

Ultimately, the Working Group concluded that the unique regulatory regime governing investment companies made such companies sufficiently different from operating companies (regardless of size) that it was appropriate to treat such companies differently. Accordingly, the Proxy Working Group determined to amend its initial recommendation to the NYSE with respect to Rule 452 to recommend that such changes to Rule 452 not apply to any company registered under the Investment Company Act of 1940.

Conclusion

In light of the recommendations of the Proxy Working Group and based on the NYSE's own conclusion that the election of directors should no longer be deemed to be a ''routine matter,'' the NYSE proposes to amend NYSE Rule 452, and corresponding NYSE Listed Company Manual Section 402.08, to eliminate broker discretionary voting for the election of directors, but to except from that amendment companies registered under the Investment Company Act of 1940.

Effective Date

The proposed amendment will be applicable to proxy voting for shareholder meetings held on or after January 1, 2010. Notwithstanding the foregoing, in the event the proposed amendment is not approved by the Commission until after August, 31, 2009, the effective date shall be delayed to a date which is at least four months after the approval date, and which does not fall within the first six months of the calendar year. In addition, in any case the proposed amendment will not apply to a meeting that was originally scheduled to be held prior to the effective date but was properly adjourned to a date on or after the effective date.

Material Amendments to Investment Contracts

In addition to the current 18 specific actions set out in Supplementary Material .11 to Rule 452, the Exchange has long interpreted Rule 452 to preclude member organizations from voting without instructions in certain other situations, including on any material amendment to the investment advisory contract with an investment company.[10]

In addition, in 2005, the NYSE published an interpretation,[11] pursuant to a request from the SEC's Trading and Markets [sic] [12] Investment Management, that provided that any proposal to obtain shareholder approval of an investment company's investment advisory contract with a new investment adviser, which approval is required by the Investment Company Act of 1940, as amended (the ''1940 Act''), and the rules thereunder, will be deemed to be a ''matter which may affect substantially the rights or privileges of such stock'' for purposes of Rule 452 so that a member organization may not give a proxy to vote shares registered in its name absent instruction from the beneficial holder of the shares. As a result, for example, a member organization may not give a proxy to vote shares registered in its name, absent instruction from the beneficial holder of the shares, on any proposal to obtain shareholder approval required by the 1940 Act of an investment advisory contract between an investment company and a new investment adviser due to an assignment of the investment company's investment advisory contract, including an assignment caused by a change in control of the investment adviser that is party to the assigned contract.

The NYSE proposes to amend Rule 452 to specifically codify these interpretations.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) [13] 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.

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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comment letters received on the proposed amendments are discussed above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 4, is consistent with the Act. Comments may be submitted by any of the following methods:

[10] *See* Exchange Act Release No. 30697 (May 13, 1992) (SR–NYSE–1992–05).

[11] *See* Exchange Act Release No. 52569 (November 6, 2005) [*sic*] (SR–NYSE–2005–61). The Commission notes that the Release was dated October 6, 2005.

[12] The Commission notes that the correct reference is to the Commission's Division of Investment Management, as stated in the Form 19b–4.

[13] 15 U.S.C. 78f(b)(5).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–92 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–92. 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–NYSE–2006–92 and should be submitted on or before March 27, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–4754 Filed 3–5–09; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6538]

Meeting of the Environmental Affairs Council (EAC) of the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA–DR)

AGENCY: Department of State.

ACTION: Notice and request for comments.

SUMMARY: The Department of State and the Office of the United States Trade Representative (USTR) are providing notice that, as set forth in Chapter 17 (Environment) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR), the CAFTA–DR governments intend to hold the fourth meeting of the Environmental Affairs Council (the ''Council'') in San Jose, Costa Rica on March 10, 2009. The Council will hold an information session for members of the public on March 10, 2009, from 2–4 p.m. in the Ramada Herradura Hotel, facing the General Cañas Highway, five kilometers south of the Juan Santamaria International Airport. The purpose of the Council meetings is detailed below under **SUPPLEMENTARY INFORMATION**.

The meeting agenda will include a review of issues concerning implementation of the Environment Chapter, review and formal adoption of Working Procedures and a Public Outreach Plan for the Secretariat for Environmental Matters Under the CAFTA–DR (''Secretariat''), appointment of a new General Coordinator for the Secretariat, and presentations of various accomplishments under the CAFTA–DR Environmental Cooperation Program.

The Department of State and USTR invite interested agencies, organizations, and members of the public to submit written comments or suggestions regarding agenda items and to attend the public session. In preparing comments, we encourage submitters to refer to the CAFTA–DR Environment Chapter and the Final Environment Review of the CAFTA–DR (available at *http://www.ustr.gov*) and the Environmental Cooperation Agreement (ECA) (available at *http://www.state.gov/g/oes/env/trade/*).

DATES: To be assured of timely consideration, submit comments on or before March 9, 2009.

ADDRESSES: Written comments or suggestions should be submitted to both: (1) Rachel Kastenberg, Department of State, Bureau of Oceans, Environment, and Science, Office of Environmental Policy by electronic mail at *kastenbergRL@state.gov* with the subject line ''CAFTA–DR EAC Meeting'' or by fax to (202) 647–5947; and (2) Mara M. Burr, Deputy Assistant United States Trade Representative for Environment and Natural Resources, Office of the United States Trade Representative by electronic mail at *mburr@ustr.eop.gov* with the subject line ''CAFTA–DR EAC Meeting'' or by fax to (202) 395–9517.

FOR FURTHER INFORMATION CONTACT: Rachel Kastenberg, Telephone (202) 647–9266 or Mara M. Burr, Telephone (202) 395–7320.

SUPPLEMENTARY INFORMATION: Article 17.5 of Chapter 17 of CAFTA–DR establishes an Environmental Affairs Council (the ''Council''). Article 17.5 requires the Council to meet at least once a year, unless the Parties otherwise agree, to discuss the implementation of, and progress under, Chapter 17. Article 17.5 further requires, unless the Parties otherwise agree, that each meeting of the Council include a session in which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of Chapter 17.

In Article 17.9 of the Chapter, the Parties recognize the importance of strengthening capacity to protect the environment and to promote sustainable development in concert with strengthening trade and investment relations and state their commitment to expanding their cooperative relationship on environmental matters. Article 17.9 also notes that the Parties have negotiated an Environmental Cooperation Agreement (ECA) that sets out certain priority areas of cooperation on environmental activities. These priority areas are reflected in Annex 17.9 and include, among other things, conserving and managing shared, migratory, and endangered species in international trade; exchanging information on domestic implementation of multilateral environmental agreements that all the Parties have ratified; and strengthening each Party's environmental management systems, including reinforcing institutional and legal frameworks and the capacity to develop, implement, administer, and enforce environmental laws, regulations, standards, and polices.

At its fourth meeting, the Council will, among other things, (1) Review of issues concerning implementation of Chapter 17; (2) appoint a new General Coordinator for the Secretariat; (3) review and adopt the Secretariat's Working Procedures and Public

Outreach Plan; and (4) review the status of cooperative environmental activities the Parties are implementing consistent with the CAFTA–DR ECA.

The public is advised to refer to the State Department Web site at *http://www.state.gov/g/oes/env/* and the USTR Web site at *http://www.ustr.gov* for further information.

Dated: February 27, 2009.

Daniel T. Fantozzi,

Director, Office of Environmental Policy, Department of State.

[FR Doc. E9–4805 Filed 3–5–09; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0144; Notice 2]

Decision That Nonconforming 1997 and 1998 Left-Hand Drive and 1997 through 2001 Right-Hand Drive Jeep Cherokee Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of decision by the National Highway Traffic Safety Administration (NHTSA) that nonconforming 1997 and 1998 left-hand drive and 1997 through 2001 right-hand drive Jeep Cherokee multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces a decision by NHTSA that nonconforming 1997 and 1998 left-hand drive (LHD) and 1997 through 2001 right-hand drive (RHD) Jeep Cherokee multipurpose passenger vehicles (MPVs) 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 (the U.S.-certified version of the 1997 and 1998 LHD and 1997 through 2001 RHD Jeep Cherokee MPVs), and (2) they are capable of being readily altered to conform to the standards.

DATES: This decision is effective on Friday, February 27, 2009.

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.

Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

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**.

Auto Boutique, Ltd., of Costa Mesa, California (ABL) (Registered Importer 08–356), petitioned NHTSA to decide whether nonconforming 1997–2001 RHD Jeep Cherokee MPVs are eligible for importation into the United States. Shortly after ABL's petition was filed, U.S. Drive Right (USDR), of Spring Arbor, Michigan (Registered Importer 08–355) separately petitioned NHTSA to decide whether nonconforming 1997 and 1998 RHD and LHD Jeep Cherokee MPVs are eligible for importation into the United States. NHTSA published a combined notice of the petitions on September 17, 2008 (73 FR 53927) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petitions.

No comments were received in response to the notice of the petitions.

The ABL and USDR petitions differed in scope: USRD included LHD versions of the subject vehicles for model years 1997 and 1998 but did not address LHD or RHD 1999–2001 vehicles, while ABL only addressed RHD 1999–2001 vehicles.

The following discussion applies equally to both LHD and RHD vehicles. That is because in this unique case, the original manufacturer of the vehicles certified as conforming to all applicable FMVSS both LHD and RHD versions of the substantially similar U.S.-certified models in model years 1997–2001. Moreover, the description of the modifications required to convert these vehicles do not differ with respect to the driver's seating position.

The agency notes that the petitions differed significantly with respect to the need for alterations to conform the vehicles to applicable FMVSS. ABL did not indicate the need for any alterations other than adding labeling to meet the requirements of 49 CFR part 565, while USDR contended that the vehicles must be altered in order to meet Standards No. 101, 108, 120 and 208 and 49 CFR part 565. A complete description of the alterations described by the two petitioners can be found in the notice of petition.

To reconcile these differences, the agency has decided that all vehicles covered by this decision must be examined for compliance with Standards No. 101, 108, 120 and 208 as well as 49 CFR Part 565 and that RIs must demonstrate, in the conformity statements submitted for any vehicle imported under this eligibility decision, that each vehicle either conformed to the standard as originally manufactured or has been altered to conform by the RI.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA has decided that nonconforming 1997 and 1998 LHD and 1997 through 2001 RHD Jeep Cherokee MPVs that were not originally manufactured to comply with all applicable FMVSS are substantially similar to nonconforming 1997 and 1998 LHD and 1997 through 2001 RHD Jeep Cherokee MPVs originally manufactured for sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable FMVSS.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–516 is the vehicle eligibility number assigned to 1997 and 1998 LHD Jeep Cherokee

MPVs and VSP–515 is the vehicle eligibility number assigned to 1997 through 2001 RHD Jeep Cherokee MPVs admissible under this notice of final decision.

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 February 27, 2009.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E9–4808 Filed 3–5–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from GATX Rail (WB512–14–12/16/08), for permission to use certain data from the Board's Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245–0330.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–4747 Filed 3–5–09; 8:45 am]

BILLING CODE 4915–10–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Capital Magnet Fund

AGENCY: Community Development Financial Institutions Fund, U.S. Department of the Treasury.

ACTION: Request for public comment.

SUMMARY: This notice invites comments from the public on issues regarding how the Community Development Financial Institutions (CDFI) Fund should design, implement, and administer the Capital Magnet Fund, as set forth in Section 1339 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Act), which was added through Section 1131(b) of the Housing and Economic Recovery Act of 2008. All materials submitted will be available for public inspection and copying.

DATES: All comments and submissions must be received by May 5, 2009.

ADDRESSES: Comments may be sent by mail to: Deputy Director of Policy and Programs, CDFI Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; by e-mail to *cdfihelp@cdfi.treas.gov*; or by facsimile at (202) 622–7754. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: Information regarding the CDFI Fund and the Capital Magnet Fund may be downloaded from the CDFI Fund's Web site at *http://www.cdfifundgov.*

SUPPLEMENTARY INFORMATION: The Capital Magnet Fund was established through the Housing and Economic Recovery Act of 2008, which added Section 1339 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Act), 12 U.S.C. 4569. Through the Capital Magnet Fund, the CDFI Fund will carry out a competitive grant program for CDFIs and nonprofit organizations (if one of their principal purposes is the development or management of affordable housing) to attract private capital for and increase investment in the development, preservation, rehabilitation, and purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and economic development activities or community service facilities (such as day care centers, workforce development centers, and health care clinics) which in conjunction with affordable housing activities will implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area. Section 1339 established the Capital Magnet Fund as a program that will be administered by the CDFI Fund.

The CDFI Fund invites and encourages comments and suggestions germane to the mission, purpose, and implementation of the Capital Magnet Fund. The CDFI Fund is particularly interested in comments in the following areas:

Eligible Use of Funds

Section 1339(c) of the Act states that Capital Magnet Fund grants shall be used to attract private capital for and increase investment in: (a) The development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and (b) economic development activities or community service facilities, such as daycare centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area. Section 1339(f) of the Act states that grant amounts awarded from the Capital Magnet Fund may be used in furtherance of the purposes above, including for the following eligible uses:

(1) To provide loan loss reserves;

(2) To capitalize a revolving loan fund;

(3) To capitalize an affordable housing fund;

(4) To capitalize a fund to support economic development activities or community service facilities, as described in Section 1339(c)(2) of the Act; and

(5) For risk-sharing loans.

The CDFI Fund welcomes comments on issues relating to the eligibility of certain activities, particularly with respect to the following questions:

(a) What definition should the CDFI Fund use to assess what constitutes ''affordable housing?'' What affordability thresholds or restrictions (if any) should the Fund require, and for how long a period should these be in place?

(b) How should ''primarily'' be defined, as such term is used in Section 1339(c)(l)? What are the appropriate minimum levels of targeting that each project should be required to achieve (e.g., 50 percent of housing units are affordable to low-income persons, 20 percent of housing units are available to extremely low-income persons, etc.)?

(c) How should ''preservation'' be defined, as such term is used in Section 1339(c)(1)? Should it include the re-financing of single- or multi-family mortgages as eligible activities?

(d) How should ''rehabilitation'' be defined, as such term is used in Section 1339(c)(1)?

(e) Capital Magnet Fund grants may be used to finance economic development activities and/or community service facilities ''in conjunction with affordable housing activities.''

(i) What restrictions (if any) should the CDFI Fund place on the percentage of award dollars that an awardee may apply towards economic development activities and/or community service facilities (e.g., no more than 20 percent of a total award)?

(ii) Should the CDFI Fund support economic development activities/community service facilities in conjunction with affordable housing activities financed by sources other than

Capital Magnet Fund grants (e.g., Low-Income Housing Tax Credits; Hope VI; or private sources) or solely in conjunction with Capital Magnet Fund grants?

(iii) How should the CDFI Fund define ''in conjunction with''? For example, does this mean on the same premises, in a separate property adjoining the premises, contiguous to or within the census tract where the premises is located, or within a certain distance from the premises? (iv) How should the CDFI Fund define ''concerted strategy''?

Eligible Grantees

Section 1339(e) of the Act states that Capital Magnet Fund grants may only be made to: (a) A CDFI that has been certified by the CDFI Fund; or (b) a nonprofit organization having as one of its principal purposes the development or management of affordable housing. How should the CDFI Fund define ''principal purpose,'' with respect to determining whether one of an entity's principal purposes is the development or management of affordable housing?

Applications

The CDFI Fund welcomes comments pertaining to the content of the application materials, the timing of award rounds, and the application scoring and review protocols particularly with respect to the following questions:

(a) Are there other competitive award programs, Federal or otherwise, upon which the CDFI Fund should model the Capital Magnet Fund's application scoring and review protocols?

(b) Should the CDFI Fund divide applicants among different pools so that they compete only among organizations at the same capacity level (similar to the Core and SECA designations for the CDFI Program)?

(c) Should the CDFI Fund accept applications on an annual basis or more often (e.g., twice a year)?

(d) Section 1339(j)(2)(D)(ii) requires ''a prioritization of funding based upon:

(1) The ability to use such funds to generate additional investments;

(2) Affordable housing need (taking into account the distinct needs of different regions of the country); and

(3) Ability to obligate amounts and undertake activities so funded in a timely manner.'' With respect to this particular requirement:

(i) How should the CDFI Fund quantify each of the three priority factors? For each of the three factors, what should applicants be required to present and/or address as part of their application materials?

(ii) Should this prioritization be incorporated into the standard scoring of the application (e.g., by weighting certain questions more heavily) or should there be separate ''priority points'' specific to each of the three criteria?

Geographic Diversity

Section 1339(h)(2)(A) of the Act states: ''The Secretary of the Treasury shall seek to fund activities in geographically diverse areas of economic distress, including metropolitan and undeserved rural areas in every State.'' Section 1 339(h)(2)(B) provides that objective criteria of economic distress may include:

(1) The percentage of low-income families or the extent of poverty;

(2) The rate of unemployment or underemployment;

(3) The extent of blight and disinvestment;

(4) Projects that target extremely low-, very low-, and low-income families in or outside a designated economic distress area; or

(5) Any other criteria designated by the Secretary of the Treasury.

The CDFI Fund welcomes comments on issues relating to geographic diversity, particularly with respect to the following questions:

(a) What objective criteria of economic distress should the CDFI Fund adopt?

(1) If the percentage of low-income families is selected as an objective criterion of economic distress, what is the appropriate minimum level (e.g., census tracts where the median family income is at or below 80 percent of the applicable area median family income)?

(2) If poverty rate is selected as an objective criterion of economic distress, what is the appropriate minimum level (e.g., census tracts with at least a 20 percent poverty rate)?

(3) If unemployment or underemployment is selected as an objective criterion of economic distress, what is the appropriate minimum level (e.g., census tracts with an unemployment rate at least 1.5 times the national average)?

(4) If ''blight'' or ''disinvestment'' is selected as an objective criterion of economic distress, how should they be defined?

(5) Are there additional criteria of distress, other than those specifically listed in Section 1339(h)(2)(B), that the CDFI Fund should consider? For example, is there a measure specific to housing that should be considered (e.g., the ratio of renters to homeowners in a community; percentage of vacant properties in a community; or percentage of substandard properties in a community)?

(6) Are there special populations facing economic distress or with high housing needs that the Fund should consider? Are there particular measures that should not be used because they may inadvertently disadvantage certain populations? If so, provide examples of particular households or communities that would not qualify under specific definitions.

(b) How should the CDFI Fund define ''rural areas''? For example, is a rural area any census tract that is not located in a metropolitan statistical area (MSA)? Respondents should discuss how a particular definition would enable the program to best ensure funding to people in rural areas, and discuss whether there are particular measures that should not be used because they may inadvertently disadvantage certain populations (i.e., provide examples of particular households or communities that would not qualify under specific definitions).

(c) Should the CDFI Fund ensure that, in any given award round, there is a project located in every state? Should the CDFI Fund ''skip over'' otherwise higher rated applicants to ensure that this geographic diversity goal is met?

(d) Section 1339(j)(2)(D)(i) of the Act requires that ''funds be fairly distributed to urban, suburban, and rural areas.'' How can the CDFI Fund best achieve this outcome?

Leverage of Funds

Section 1339(h)(3) of the Act states: ''Each grant from the Capital Magnet Fund awarded under this section shall be reasonably expected to result in eligible housing, or economic and community development projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.''

The CDFI Fund welcomes comments regarding how applicants would be able to demonstrate a leveraging ratio of 10:1 of ''total aggregate costs,'' particularly with respect to the following questions:

(a) What documentation should be required to demonstrate a leveraging ratio of 10:1 of ''total aggregate costs''?

(b) How should this 10:1 standard be measured (e.g., on a project-by-project basis for each project funded, or on a collective basis for all projects financed)?

(c) Is there a timing consideration as to when the CDFI Fund should release its award dollars (e.g., not until all other sources of financing have been secured)?

Commitment for Use Deadline

Section 1339(h)(4) of the Act states: ''Amounts made available for grants under this section shall be committed for use within 2 years of the date of such allocation.'' The CDFJ Fund welcomes comments regarding how the term ''committed'' should be defined, and how it can be verified, for the purposes of this requirement.

Prohibited Uses

Section 1339(h)(5)–(6) of the Act lists prohibited uses with respect to grants awarded under this program.

Are there any additional prohibitions or limitations that should be applied? For example, there are no stated limitations regarding the portions of Capital Magnet Fund grants that may be retained by the awardee to cover operating costs. Should the CDFJ Fund permit a set portion of awards to cover operating costs? If so, what percentage of the funds should be allowed? Should awardees be restricted in the level of fees they charge to sub recipients/end-users?

Accountability of Recipients and Grantees

Section 1339(h)(8) of the Act provides for accountability standards with respect to tracking the use of award dollars, as well as remedies in the event that an awardee misuses funds.

The CDFI Fund welcomes comments on how to administer awards and monitor the deployment of funds awarded under the Capital Magnet Fund, particularly with respect to the following questions:

(a) What documentation should be required to demonstrate that funds awarded under the Capital Magnet Fund have been committed?

(b) What types of documentation should be required to demonstrate completion of projects?

(c) What types of documentation should be required to demonstrate satisfaction of the affordability requirement related to housing developed, preserved, rehabilitated, or purchased with the support of Capital Magnet Fund awards?

(d) What support, if any, would applicants and awardees like to see from the CDFI Fund at the post-award stage?

(e) What specific industry standards for impact measures (units produced, percentage of units affordable to low-income persons; time to complete; etc.) should the CDFI Fund adopt for evaluating and monitoring projects funded under the Capital Magnet Fund?

General Comments

The Fund is interested in comments regarding the types of affordable housing projects or activities for which applicants anticipate applying under the Capital Magnet Fund. Please detail the specific activity (development, preservation, rehabilitation, purchase, etc.), the populations served by this activity, the applicant's role in the activity, the sources of finance used to complete each activity, and the preferred time frame of grants received under the Capital Magnet Fund.

Authority: 12 U.S.C. 4569.

Dated: February 27, 2009.

Donna J. Gambrell.

Director, Community Development Financial Institutions Fund.

[FR Doc. E9–4648 Filed 3–5–09; 8:45 am]

BILLING CODE 4810–70–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID: OTS–2009–0001]

Open Meeting of the OTS Minority Depository Institutions Advisory Committee

AGENCY: Department of the Treasury, Office of Thrift Supervision.

ACTION: Notice of meeting.

SUMMARY: The OTS Minority Depository Institutions Advisory Committee (MDIAC) will convene its first meeting on Wednesday, March 25, 2009, in Conference Room 6A of the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC, beginning at 9:30 a.m. Eastern Time. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, March 25, 2009, at 9:30 a.m. Eastern Time.

ADDRESSES: The meeting will be held at the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC in Conference Room A. The public is invited to submit written statements to the MDIAC by any one of the following methods:

- *E-mail address: Commaffairs@ots.treas.gov;* or
- *Mail:* To Cassandra McConnell, Designated Federal Official, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552 in triplicate.

The agency must receive statements no later than March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Cassandra McConnell, Designated Federal Official, (202) 906–5750, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: By this notice, the Office of Thrift Supervision is announcing that the OTS Minority Depository Institutions Advisory Committee will convene its first meeting on Wednesday, March 25, 2009, in Conference Room 6A at the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC, beginning at 9:30 a.m. Eastern Time. The meeting will be open to the public. Because the meeting will be held in a secured facility with limited space, members of the public who plan to attend the meeting, and members of the public who require auxiliary aid, must contact the Office of Community Affairs at 202–906–7891 by 5 p.m. Eastern Time on Wednesday, March 18, 2009, to inform OTS of their desire to attend the meeting and to provide the information that will be required to facilitate entry into the OTS building. To enter the building, attendees should provide their full name, e-mail address, date of birth, social security number, organization, and country of citizenship. The purpose of the meeting is to advise OTS on ways to meet the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, Title III, 103 Stat. 353, 12 U.S.C.A. 1463 note. The goals of section 308 are to preserve the present number of minority institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority institutions. The MDIAC will help OTS meet those goals by providing informed advice and recommendations regarding a range of issues involving minority depository institutions.

Dated: March 3, 2009.

By the Office of Thrift Supervision.

Montrice Godard Yakimov,

Managing Director, Compliance and Consumer Protection.

[FR Doc. E9–4814 Filed 3–3–09; 4:15 pm]

BILLING CODE 6720–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—March 24, 2009, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Carolyn Bartholomew, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.''

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on March 24, 2009 to address ''China's Industrial Policy and its Impact on U.S. Companies, Workers, and the American Economy.''

Background

This event is the third in a series of public hearings the Commission will hold during its 2009 report cycle to collect input from leading academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The March 24 hearing will examine the China's pillar and strategic industries, China's use of incentives to attract investment into its pillar and strategic industries, China's telecommunications and information technology (IT) industries, and China's nanotechnology and optoelectronics industries.

The March 24 hearing will be Co-chaired by Commissioners Patrick A. Mulloy and Daniel M. Slane.

Information on hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web Site *http://www.uscc.gov.*

Copies of the hearing agenda will be made available on the Commission's Web Site *http://www.uscc.gov* as soon as available. Any interested party may file a written statement by March 24, 2009, by mailing to the contact below. On March 24, the hearing will be held in two sessions, one in the morning and one in the afternoon. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

DATE AND TIME: Tuesday, March 24, 2009, 8:15 a.m. to 5:15 p.m. Eastern Standard Time. A detailed agenda for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: The address will be posted to the USCC Web Site *http://www.uscc.gov* as soon as a hearing room is assigned.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington DC 20001; phone: 202–624–1409, or via e-mail at *kmichels@uscc.gov.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: March 3, 2009.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E9–4774 Filed 3–5–09; 8:45 am]

BILLING CODE 1137–00–P

Federal Register

Friday,
March 6, 2009

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 660

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2009–2010 Biennial Specifications and Management Measures; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 0809121213–9221–02]

RIN 0648–AX24

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2009–2010 Biennial Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: This final rule sets the 2009–2010 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California and it revises rebuilding plans for four of the seven overfished rockfish species, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Coast Groundfish Fishery Management Plan. Together, the revisions to rebuilding plans and the 2009–2010 harvest specifications and management measures are intended to rebuild overfished stocks as soon as possible, taking into account the status and biology of the stocks, the needs of fishing communities, and the interaction of the overfished stocks within the marine environment.

DATES: Effective March 1, 2009.

FOR FURTHER INFORMATION CONTACT: Gretchen Arentzen (Northwest Region, NMFS), phone: 206–526–6147, fax: 206–526–6736 and e-mail *gretchen.arentzen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.gpoaccess.gov/fr/index.html*. Background information and documents are available at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/*.

Background

NMFS published a proposed rule to implement the 2009–2010 groundfish harvest specifications and management measures on December 31, 2008, (73 FR 80516). The proposed rule requested comments through January 30, 2009. NMFS received eight letters of comment, which are addressed later in the preamble to this final rule. See the preamble to the proposed rule for additional background information on the fishery and on this final rule.

The amount of each Pacific Coast groundfish species or species group that is available for harvest in a specific year is referred to as a harvest specification. Harvest specifications include acceptable biological catches (ABCs), optimum yields (OYs), and harvest guidelines (HGs). Harvest specifications may also include ''set-asides'' of harvestable amounts of fish.

The ABC is a biologically based estimate of the amount of fish that may be harvested each year without affecting the sustainability of the resource. The ABC may be modified with precautionary adjustments to account for uncertainty. An OY is a target harvest level for a species or species group. The OYs may be set equal to the ABC for the species or species group, but are often set lower as a precautionary measure. The Council's policies on setting ABCs, OYs, and other harvest specifications are discussed later in the preamble to this final rule. Harvest specifications for 2009–2010 are provided in Tables 1a through 2c.

Management measures for 2009–2010 work in combination with the existing regulations to create a management structure that is intended to constrain fishing so the catch of overfished groundfish species does not exceed the rebuilding-based OYs while allowing, to the extent possible, the OYs for healthier groundfish stocks that co-occur with the overfished stocks to be achieved. In order to rebuild overfished species, allowable harvest levels of healthy species will only be achieved where such harvest will not deter rebuilding of overfished stocks.

Comments and Responses

During the comment period for the 2009–2010 harvest specifications and management measures proposed rule, NMFS received eight letters of comment. The Makah Tribe and the Quileute Tribe each submitted letters of comment concerning the tribal allocation for Pacific whiting. The Department of the Interior submitted a letter stating they had no comment. California Department of Fish and Game, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife submitted editorial and technical corrections to be made in the final rule to make it consistent with the Pacific Council action. One letter of comment was sent jointly by four environmental advocacy organizations (Natural Resources Defense Council, Pacific Marine Conservation Council, Ocean Conservancy, and Marine Fish Conservation Network; hereinafter, ''The Four Organizations.'') Santa Monica Seafood sent a letter of comment in support of precautionary and sustainable fishery management. Substantive comments received on the proposed rule are addressed here:

Makah Tribe

Comment 1: The Makah Tribe supported the proposed rule, and focused their comments on the portion of the rule that addressed tribal treaty fisheries for Pacific whiting. They believe that the total allocation of whiting to the treaty tribes should be sufficient to meet the needs of each tribe participating in the fishery, as reasonably determined by the tribes themselves, and that each tribe should be responsible for managing the portion of the allocation necessary to meet its needs and minimizing bycatch. The Makah believe that the proposed rule is consistent with these principles, and addresses the possibility of a race for fish and any associated exceedence of bycatch limits.

Response: NOAA agrees that the rule reflects the approach described by the Makah, and that a goal of the tribal whiting portion of the rule is to accommodate the tribal treaty right and to avoid a race for fish and excessive bycatch.

Quileute Tribe

Comment 2: The Quileute Tribe believes that the proposed rule's division of the tribal whiting allocation into ''set-asides'' for the Makah Tribe and the Quileute Tribe is inconsistent with court rulings in *United States* v. *Washington* and with prior NOAA practice.

Response: As stated in the proposed rule, the tribal set-asides for 2009 are based on timely requests made to the Council, consistent with the schedule for the implementation of tribal fisheries set forth in 50 CFR 660.324(b). Both the Makah Tribe and the Quileute Tribe made timely requests for the 2009 whiting fishery for consideration at the June 2008 Council meeting. At this meeting, and at additional meetings and discussions among the tribal, state, and federal co-managers, NOAA reached an understanding that the Quileute anticipated harvesting up to 8,000 mt and that the Makah anticipated harvesting up to 42,000 mt, for a total tribal allocation of 50,000 mt. Fifty thousand metric tons, while higher that previous tribal allocations, is still clearly within the treaty right given the current knowledge of the distribution

and abundance of the coastal whiting stock. At its June 2008 meeting, the Council recommended this amount and the individual tribal set-asides for further analysis.

Following the Council's recommendation and the issuance of the DEIS analyzing that recommendation and the associated bycatch, the Quileute Tribe stated its intent to harvest up to 24,000 mt of whiting in the 2009 fishery. The tribes have not reached agreement regarding the division of the tribal share for 2009 in light of the Quileute Tribe's later, larger harvest estimate. Without clear management targets for each tribe, a race for fish may occur as whiting migrate from south to north, reaching the Quileutes usual and accustomed fishing areas (U&A) before they reach the Makah U&A. A race for fish could result in excessive bycatch of overfished species, and the closure of other groundfish fisheries.

The division of the tribal share of whiting into set-asides for the individual tribes is not inconsistent with either the court rulings in *United States* v. *Washington* or NOAA's past practice. These set-asides are not formal allocations, nor do they create precedent for future years. They are, however, necessary under the circumstances to ensure that the tribal and non-tribal fisheries are conducted in an orderly manner and bycatch limits of overfished species are not exceeded. The tribes bear the primary responsibility for dividing the tribal share of the fish. *U.S.* v. *Washington*, 384 F. Supp. 312, 417 (1974). However, the court has also emphasized the importance of close coordination between the co-managers to ensure that the fishery resource is properly managed and conserved. See, e.g., *U.S.* v. *Washington,* 520 F.2d 676, 685 (9th Cir. 1975). In several instances, the court has ordered the co-managers to share information on a schedule, and to consult with each other on the management of the fisheries. See, e.g., *U.S.* v. *Washington,* 459 F. Supp. 1020, 1035–38 (W.D. Wash. 1978); *U.S.* v. *Washington,* 626 F. Supp. 1405, 1420 (W. D. Wash. 1985). The process and schedule for the implementation of new tribal fisheries set forth in 50 CFR 660.324(b) is consistent with the co-management responsibility the court has described. The goal of the schedule is to integrate consideration of the tribal fisheries into the Council's process for determining annual groundfish harvest specifications. Close coordination in planning for tribal and non-tribal fisheries is particularly important given the severe limits imposed on the west coast groundfish fisheries in order to rebuild overfished species such as canary and yelloweye rockfish. NOAA is responsible under the MSA for minimizing bycatch and preventing overfishing, and must carry out this responsibility consistent with the tribes' treaty fishing rights. Further, as trustee for all of the tribes, the Federal Government has a responsibility to ensure that one tribe's exercise of its treaty right does not prevent another tribes' exercise of that right. The regulatory processes for implementing the tribal fisheries and the tribal set-asides for 2009 are consistent with these legal mandates.

The Council has asked NOAA to work with the tribal, state, and Federal co-managers to develop a proposal for the tribal whiting fishery for 2010 and beyond. NOAA has begun the process of developing scientific information for use in achieving this goal, in consultation with the tribal and state co-managers. Specifically, NOAA hopes to reach consensus with the other co-managers on the appropriate tribal allocation, and to provide the tribes with information that may assist them in reaching agreement on the division of the tribal share in the future. NOAA does not intend to allocate the total tribal whiting allocation to the individual tribes. Should the tribes fail to reach consensus regarding the division of that amount amongst themselves in the future, NOAA will consider initiating litigation to resolve this issue in order to ensure that the fishery is conducted in a manner that accommodates the treaty rights of the tribes, and avoids excessive bycatch.

Comment 3: The Quileute Tribe argues that the proposed set-asides unfairly favor the Makah Tribe because the Makah set-aside is significantly larger than the Quileute set-aside, even though at least as many whiting pass through the Quileute U&A as pass through the Makah U&A.

Response: As described above, the tribal set-asides for 2009 are based on the tribes' own estimates of the size of their harvests, not on any independent analysis by NOAA. Further, the set-asides for 2009 do not create any sort of precedent for future tribal fisheries. Ideally, the tribes will reach consensus on the division of the total tribal share for 2010 and beyond.

California Department of Fish and Game, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife

Comment 4: The California Department of Fish and Game (CDFG) submitted a list of 20 editorial, technical, and corrective comments on the proposed rule. The comments ranged from edits on capitalization to proposing clarifying revisions to the regulatory text for California's recreational groundfish fisheries. Washington Department of Fish and Wildlife had one minor comment on incidental catch of lingcod in the salmon troll fishery. Oregon Department of Fish and Wildlife suggested corrections to the ABC/OY tables.

Response: None of the CDFG comments represent fundamental revisions, but propose to correct the final rule so that it is consistent with the Pacific Council's final action. Much of the preamble text, to which the first four CDFG comments pertain, is not repeated or revised in this final rule. Therefore, though NMFS agrees with these four editorial comments, no revisions are made to this final rule. NMFS also agrees with the remainder of the comments and has revised the following regulatory paragraphs in response to these comments: § 660.384; Table 1a, Table 1c, and Table 2a; and § 660.394. The lingcod comment from Washington Department of Fish and Wildlife was addressed in Table 5 (North). Comments from Oregon Department of Fish and Wildlife were addressed in ABC/OY tables 1a, 1b, 1c, 2a, 2b, and 2c. These changes are explained below in the section *Changes from the Proposed Rule.*

Comment 5: In their comment letter (Comment 9), CDFG requests that NMFS add language to § 660.390—Groundfish Conservation Areas that refers readers to the California Recreational Fishery regulations, at § 660.384(c), so that they can see the effective periods of each particular area closure.

Response: The introductory regulatory text to section § 660.390 states that, '' * * * Fishing activity that is prohibited or permitted within a particular groundfish conservation area is detailed at §§ 660.381 through 660.384.'' This introductory text was not published in the proposed rule, as no revisions to this language were proposed. NMFS feels that the clarification requested by CDFG is already captured in the existing regulatory language, and therefore has not made any revisions in this final rule.

The Four Organizations

Comment 6: The Four Organizations urged NMFS to manage blue rockfish separately from the minor nearshore complex and set a precautionary OY that reduces catch below the 2007 level given scientific suspicion that this species may be experiencing overfishing.

Response: NMFS will continue to manage blue rockfish under the minor nearshore rockfish complexes and to

establish a 220 mt harvest guideline (HG) for all California fisheries. The 220 mt HG is below the assessment ABC of 241 mt in 2009 (223 mt north of Pt. Conception from base model in the assessment plus 18 mt for south of Pt. Conception) and 239 mt in 2010 (221 mt north of Pt. Conception from base model in the assessment plus 18 mt for south of Pt. Conception) and is therefore a prescribed harvest level below the overfishing threshold. California Department of Fish and Game (CDFG) has committed to maintaining harvests below this HG and has the authority to enact more precautionary management measures if necessary (see section 4.3.2.1 in the DEIS for more details). Blue rockfish are covered by the California Nearshore Fishery Management Plan and are harvested primarily inside state waters off California, so California has the greater ability to control the harvest of blue rockfish. They have indicated they will take management measures as necessary to stay within harvest guidelines.

Comment 7: The Four Organizations urged NMFS to schedule greenspotted rockfish for assessment in the 2009–2010 cycle per the SSC recommendation.

Response: Deciding which groundfish stocks to assess in 2009 is not part of this final rule. NMFS notes that the assessment schedule, developed by the Council in close coordination with NMFS and the states, is based on a variety of factors, including data availability and workload issues for all involved.

Comment 8: The Four Organizations urged NMFS to conduct an assessment of and design specific protection measures for bronzespotted rockfish as scientific data indicate it is vulnerable to fishing and that landings have declined dramatically; they also urged NMFS to keep the preferred alternative choice of a no-retention policy.

Response: As per the response on greenspotted rockfish, deciding on whether an assessment of bronzespotted rockfish is done is not a part of the proposed action. Given the scientific information on bronzespotted rockfish, which is summarized in the FEIS, NMFS is prohibiting retention of bronzespotted rockfish in all west coast fisheries, which will greatly reduce fishing mortality, since historical data indicate that the stock was targeted when it was encountered. The available scientific information also suggests that bronzespotted rockfish are distributed in the same habitats as cowcod and continuing the Cowcod Conservation Areas should contribute to conservation of the stock. In the proposed rule, regulatory language at § 660.384(c)(3)(iii)(B) mistakenly neglected to add bronzespotted rockfish to the list of species that may not be retained in the California recreational fishery. In the final rule, this section is revised to add bronzespotted rockfish to the list of species that may not be retained in the California recreational fishery. Also, NMFS adds species specific trip limits for bronzespotted rockfish, to designate it as ''closed'', in Tables 3 (South), 4 (South), and 5 (South). These actions are consistent with the FEIS.

Comment 9: The Four Organizations urged NMFS to conduct a spiny dogfish stock assessment in the 2009–2010 timeframe. They assert that spiny dogfish are a slow-growing species which is ''experiencing crashes and red listings within its range.''

Response: NMFS notes again that the assessment schedule is not part of this final rule and is based on a variety of factors, including data availability and workload issues. As discussed in NMFS response to comments in Chapter 15 of the FEIS, NMFS has considered that the general life history characteristics of spiny dogfish make the species generally vulnerable to overexploitation. However, trip limits in combination with Rockfish Conservation Areas (RCAs), are intended to reduce the total catch of dogfish over historical catch levels. NMFS assumes that the reference to ''red listings'' refers to the International Union for Conservation of Nature (IUCN) red list, which does not appear to include Pacific spiny dogfish. It should also be noted that there does not appear to be the same potential threats to spiny dogfish populations in the northeast Pacific compared to other regions where they occur.

Comment 10: The Four Organizations urged NMFS to rebuild darkblotched rockfish within 10 years, which they assert is required under the Magnuson-Stevens Act; in the event that NMFS does not follow this course of action, at a minimum NMFS should implement an OY no higher than the 2006 OY level of 200 mt to reflect the new biological understanding that the stock is rebuilding more slowly than previously thought.

Response: The Magnuson-Stevens Act requires a rebuilding period that is as short as possible, taking into account the appropriate statutory factors, and that does not exceed 10 years unless it is biologically impossible. In the groundfish FMP, T_{min} is the minimum time to rebuild a stock from the onset of the rebuilding plan or the first year of rebuilding. T_{min} is the predicted time to rebuild a stock in the absence of fishing (a zero-harvest strategy) and was established when the original rebuilding plan for darkblotched was developed. The revised rebuilding plan for darkblotched begins by determining the time to rebuild under a zero-harvest strategy starting with the implementation of the revised rebuilding plan; this is referred to as T_0 or T at F=0. Both T_{min} and T_0 are estimated in the groundfish rebuilding analyses and these estimates are provided in Tables 2–3 and 2–5 in the FEIS. From Table 2–5, the current estimate of T_{min} for darkblotched is 2015 and, from Table 2–3, the current estimate of T_0 for darkblotched is 2018. What this means, given our current understanding of darkblotched status and productivity, is that the stock could have been rebuilt by 2015 if a zero-harvest strategy had been adopted from the onset of rebuilding in 2002 (the stock was declared overfished in 2001) or the stock could be rebuilt by 2018 if a zero-harvest strategy is adopted beginning in 2009, which is the shortest rebuilding period that can be currently considered for rebuilding darkblotched, based on the best information available now.

The Four Organizations imply that a zero-harvest strategy is a Magnuson-Stevens Act mandate for the revised rebuilding plan since the stock can now be rebuilt within ten years under a zero-harvest strategy. This does not make sense, since that reasoning would require a zero-harvest strategy whenever a stock is potentially within ten years of being rebuilt at any point in the rebuilding period.

The darkblotched rebuilding plan, as well as all west coast groundfish rebuilding plans, relies on a strategy to rebuild in as short a time as possible while taking into account the status and biology of the depleted stock, the needs of fishing communities, and the interaction of the depleted stock within the marine ecosystem. As described in section 2.1.1 of the FEIS, this rebuilding objective was underscored in an August 2005 ruling in the Ninth Circuit Court of Appeals, which resulted in reconsideration of all west coast groundfish rebuilding plans under FMP Amendment 16–4 in 2006. The resulting darkblotched OYs in 2007 and 2008 were specified in accordance with the Amendment 16–4 rebuilding plan, considering the time to rebuild, the needs of west coast fishing communities, and other appropriate factors. Setting the 2009 and 2010 darkblotched OY no higher than the 2006 OY of 200 mt would cause significant negative impacts to west coast fishing communities as evidenced

by the analyses in the Amendment 16–4 EIS, and the analyses used to decide the preferred OYs for 2009 and 2010 in the FEIS.

The rebuilding approach under Amendment 16–4 does not consider the harvest and rebuilding of darkblotched rockfish in isolation from the harvest and rebuilding of other groundfish species. Changes in the OYs for any of the overfished species affect the time to rebuild for that species and the ability of fishermen to harvest other species of groundfish, including healthy species. Similarly, changes in OYs for groundfish species have differing economic impacts on West Coast fishing communities. For these reasons, the Four Organizations have taken a limited perspective on the darkblotched rebuilding plan. Consistent with Amendment 16–4, NMFS took a programmatic perspective for 2009 and 2010 and examined all rebuilding plans, and their impacts on communities, simultaneously. In doing so, NMFS considered both time to rebuild and needs of communities in the decision for all changes to rebuilding plans and selection of overfished species OYs.

Darkblotched rockfish is one of the most important overfished species in relation to the overall health of commercial fisheries and their communities, because its rebuilding OY limits access to some of the most valuable target stocks (Dover sole, thornyheads, sablefish, petrale sole, and to some degree, Pacific whiting). Therefore, a relatively small reduction in darkblotched harvest in one year will result in a relatively large reduction in the amount of the target species that can be harvested. Because marginal changes in the darkblotched harvest rate have a relatively large effect on economic benefits from the groundfish commercial fisheries, a darkblotched OY that is slightly less conservative than those for other overfished species and results in a slightly longer rebuilding period is justified.

Comment 11: The Four Organizations urged NMFS to adopt an OY of 44 mt or 85 mt for canary rockfish in light of the fact that the 2007 OY of 44 mt was manageable and that the new, more optimistic stock assessment has considerable uncertainty.

Response: Considerable analysis of the new canary rockfish stock assessment, the new canary rockfish rebuilding analysis, and the alternative 2009 and 2010 OYs resulting from the new assessment and rebuilding analysis was done in the process leading to NMFS's decision on a canary rockfish OY of 105 mt. The Stock Assessment Review (STAR) panel and the Council's Scientific and Statistical Committee (SSC) that critically evaluated the new canary rockfish assessment in 2007 recommended the new, more optimistic assessment as the best available science. While there is uncertainty in the new canary rockfish assessment, the new assessment is considered superior to previous canary rockfish assessments by the STAR panel and the SSC.

NMFS disagrees with the Four Organizations' assertion that the 105 mt canary rockfish OY ''prioritizes economic gain over rebuilding within the statutorily required timeframe''. The reductions in groundfish harvest imposed by the canary rockfish rebuilding plan have created significant adverse economic impacts on all sectors of the west coast groundfish fishery. As shown during the development of Amendment 16–4 and continuing now, many of the most economically vulnerable ports are losing their infrastructure and seeing many fishing-related business losses.

In addition to the impacts predicted during the development of Amendment 16–4, following the adoption of 2007–2008 groundfish harvest specifications and management measures, the Council received updated observer data that indicated canary rockfish bycatch was higher than previously thought. As a result, at the April, 2007 Council meeting, the Council recommended inseason adjustments to management measures in order to keep overall harvest levels within the canary rockfish OY. As a result, NMFS expanded the size of the RCAs, closing off several important grounds for fishing communities off the Washington and Oregon coasts (72 FR 19390, April 18, 2007). This resulted in community impacts in 2007 and 2008 that were worse than had been anticipated. The regulations and management measures initially established for 2007 were much less restrictive than those now in place as a result of the more recent observer data. Significantly, in the remote fishing community of Neah Bay, all areas actively fished by the non-tribal trawl fleet were closed, eliminating much of the fishing activity occurring in that port and community. Other communities may not have been harmed to the same degree, but were certainly impacted more than anticipated when the 2007–2008 groundfish harvest specifications and management measures were developed and analyzed. Vessels in Astoria, for example, lost much of their access to fishing grounds shoreward-of-the-trawl RCA, an area relied upon heavily in the past. The 44 mt OY was, and would continue to be, extremely restrictive in the trawl fishery, as well as for other sectors.

The Council's SSC and National Standard 1 guidelines generally recommend a constant harvest rate strategy for rebuilding plans. However, in view of the requirement to rebuild as quickly as possible while taking into account the appropriate factors, the Council's preferred 2009–2010 canary rockfish OY of 105 mt actually lowers the status quo harvest rate in the current rebuilding plan (maintaining the status quo SPR harvest rate of $F_{88.7\%}$ would equate to a 2009–2010 OY of 155 mt). Further, the preferred alternative changes the target rebuilding year from 2063 to 2021. Table 2–3 and Figure 2–2 in the FEIS show the tradeoff in rebuilding duration under the alternative harvest rates analyzed to decide 2009–2010 OYs. One additional year of rebuilding is the ''cost'' of increasing the OY from 44 mt to 105 mt. Another way to look at it is that an OY of 105 mt results in only two additional years of rebuilding relative to the zero-harvest of canary rockfish beginning in 2009. Because canary rockfish is found along most of the coast, out to approximately 150 fathoms, zero-harvest would result in nearly total closure of the recreational fisheries along the coast and large closures for both trawl and longline fisheries. Therefore, the preferred alternative for canary rockfish responsibly uses the information in the most recent assessment to rebuild the stock while taking into account the needs of the fishing communities.

Comment 12: The Four Organizations urged NMFS to adhere to the rebuilding plan adopted in 16–4 for yelloweye rockfish and not modify it to allow higher take in 2010. Additionally, they assert that the modified rebuilding plan has a lower probability of rebuilding than under the original ramp-down plan.

Response: The revised rebuilding plan for yelloweye rockfish essentially maintains the status quo rebuilding plan adopted under FMP Amendment 16–4 by maintaining the target rebuilding year and maintaining the SPR harvest rate scheduled to be in place once the constant harvest rate strategy begins in 2011. The harvest is ramping down from the OY levels in 2007 and 2008 (23 mt and 20 mt respectively) to 17 mt in 2009 as specified in the status quo rebuilding plan. The modification is that in 2010, the OY will remain at 17 mt rather than be reduced to 14 mt, as specified in the status quo rebuilding plan. The harvest of yelloweye rockfish under the status quo rebuilding plan in 2010 would take 1.29 percent of the spawning biomass in

that year. Under the revised rebuilding plan, 1.56 percent will be taken. This slight modification occurs in only one year of the rebuilding plan and provides no appreciable difference in the time or probability to rebuild between this alternative and the status quo plan. Table 4–10 in the FEIS that shows the rebuilding probability for yelloweye rockfish under both the preliminary and final preferred alternative are essentially the same, as calculated to one tenth of one percent.

The Four Organizations allege that there is no quantitative analysis to support the view that implementing a lower yelloweye OY in 2010 would have unacceptably severe impacts on fishing communities. NMFS disagrees. As an example, in terms of California recreational fisheries, yelloweye is the most constraining species north of Pt. Arena. A 2010 yelloweye rockfish OY of 17 mt provides for an additional three months of fishing in that area, as opposed to a 2010 OY of 14 mt. See Figures 2–41 and 2–51 in the FEIS.

Avoiding yelloweye rockfish in line gear fisheries has proven extremely difficult. The Council and NMFS have been progressively specifying more conservative management measures to achieve the target yelloweye rockfish harvest rate in the rebuilding plan. New recommended management measures for 2009 and 2010, such as expanding the size of the non-trawl RCA by extending it seaward and shoreward in areas north of 40°10′ N. latitude, are designed to maintain yelloweye rockfish impacts below the target harvest prescribed in the rebuilding plan. As noted in the FEIS (see sections 2.1.1.7 and 4.3.1.1), the slightly higher yelloweye rockfish harvest rate in 2010 under the preferred alternative is recommended in large part due to higher than anticipated yelloweye bycatch in the northern California recreational groundfish fishery in 2007 and to allow one more year to determine effective management measures, including potential new Yelloweye RCAs (YRCAs) needed to minimize bycatch of yelloweye rockfish in a manner that minimizes potential impacts.

Comment 13: The Four Organizations urged NMFS to analyze and determine a threshold of economic activity below which a disaster would occur and structure the rebuilding alternatives to analyze incremental increases of overfished species OY. In addition, the Four Organizations assert that NMFS has failed to show that the groundfish fishery is experiencing a ''disaster.''

Response: Declaration of a ''disaster threshhold'' is not a requirement under MSA or any other applicable laws. The appropriate standard is set out in the MSA. The analysis of socioeconomic impacts associated with overfished species OYs uses the same framework adopted under Amendment 16–4 for rebuilding plans and the 2007–2008 harvest specifications. Under this framework, impacts to west coast fishing communities associated with rebuilding alternatives are analyzed based on each community's dependence on the groundfish fishery and the general economic resilience of that community to changes in fishing opportunities. Communities that are highly dependent on the groundfish fishery and with very low resilience to changes in economic activities associated with groundfish fishing are considered more vulnerable to negative socioeconomic impacts under more conservative rebuilding alternatives. Each community is differentially affected by an individual species rebuilding plan based on that species distribution and the way that species rebuilding plan affects the fisheries that contribute to the community's economic infrastructure. This is a more realistic approach for assessing impacts on communities since different communities suffer such different impacts.

However, to put the ''disaster threshold'' question in its proper context, one must consider that the current non-whiting groundfish fishery is much more constrained today under the full range of overfished species OYs analyzed for the 2009–2010 management period than those that were specified prior to and during the year 2000 when the west coast groundfish fishery was declared a federal disaster. That is, there are far fewer groundfish fishing opportunities available today under the more conservative management regime than there were during the late 1990s and 2000. This is driven by the groundfish rebuilding plans that today dictate the amount of fishing opportunity that can be considered.

Comment 14: The Four Organizations submitted detailed comments challenging the rebuilding approach adopted under Amendment 16–4. The Four Organizations assert that NMFS prioritizes short-term economic gains over the rebuilding of overfished species. They urged the agency to adopt and implement the paradigm that is mandated by the MSA and the 9th Circuit Court. The Four Organizations assert that the ''interrelated'' framework approach of Amendment 16–4 undermines the statutory requirement to rebuild as quickly as possible and that the agency has offered no scientific basis for treating the overfished species and their OYs as ''interrelated.'' They specifically state that ''The agency is allowing more bycatch of the overfished species that it deems to be in slightly better shape in an effort to compensate fishermen for having to stay away from ones in worse shape. Nothing in the MSA allows the agency to make this trade-off between more fishing of some overfished species and less than others.'' In addition, the Four Organizations urge NMFS to adopt Alternative 3 instead of the current preferred alternative as Alternative 3 rebuilds overfished species more quickly and the DEIS analysis fails to demonstrate it would cause disastrous consequences.

Response: As explained in response to Comment 10, consistent with Amendment 16–4, NMFS took a programmatic perspective for 2009 and 2010 and examined all rebuilding plans, and their impacts on communities, simultaneously. In doing so, NMFS considered both time to rebuild and needs of communities in the decision for all changes to rebuilding plans and selection of overfished species OYs. Consistent with the 9th Circuit's recognition that different species of groundfish co-exist in the fishery when it stated that the MSA ''allows the Agency to set limited quotas that would account for the short-term needs of fishing communities (for example, to allow for some fishing of plentiful species despite the inevitability of bycatch), even though this would mean that the rebuilding period would take longer than it would under a total fishing ban.'' *Natural Resources Defense Council* v. *NMFS,* 421 F. 3d 872,880 (9th Cir. 2005) at 11423. The rebuilding approach does not consider the harvest and rebuilding of one groundfish species in isolation from the harvest and rebuilding of other groundfish species. Changes in the OYs for any of the overfished species affect the time to rebuild for that species and the ability of fishermen to harvest other species of groundfish, including healthy species. Similarly, changes in OYs for different groundfish species have differing economic impacts on West Coast fishing communities.

Short rebuilding time periods, after taking into account the appropriate statutory factors, have been the first priority to the Council and the agency during the development and implementation of Amendment 16–4. Specifically for the 2009–2010 specifications, a wider range of alternative OYs was analyzed for the seven overfished species managed

under the groundfish FMP than for the other, healthier stocks. This was due to the need to periodically evaluate the effectiveness of management measures to rebuild these stocks and to fully evaluate new stock status information that became available through stock assessments. Rebuilding OYs chosen by the Council for analysis in the DEIS encompass a reasonable range of alternatives, including 0 mt to higher OYs.

The DEIS analyses approach the harvest specifications decision by first considering the implications to stock rebuilding by evaluating alternative OYs using the criteria of catch monitoring uncertainty, stock assessment uncertainty, the level of stock depletion, rebuilding probabilities, and the extended duration of rebuilding (see DEIS section 4.2). These evaluations are used to rank the risk of alternative OYs in achieving rebuilding objectives at the individual stock level. This evaluation specifically looks at the tradeoff of potential fishing opportunities provided by progressively higher OYs versus extending rebuilding periods for these species. The next step is to systematically range OY alternatives for all seven species in concert (termed rebuilding alternatives in the DEIS) to generally gauge how these different OY suites may affect fishing opportunities on the west coast shelf and slope. This analysis recognizes that available yields for each overfished species differentially affect fisheries spatially both latitudinally and in distance from the shore, as well as by the selectivity of the various fishing gears deployed on the west coast to catch that species. For instance, yelloweye rockfish OY alternatives have a greater effect on fisheries deploying line gears on the northern shelf while widow OY alternatives are more likely to affect the ability of whiting-directed trawl fisheries to successfully harvest their whiting allocations. Finally, the analysis projects the socioeconomic impacts to west coast fishing communities by ranking communities based on their dependence on groundfish fisheries constrained by rebuilding OYs and their resilience to changes in economic activity affected by fishing opportunities. This multi-tiered analytical approach to rebuilding all the overfished species is designed to appropriately address the Magnuson-Stevens Act mandate to rebuild in as short a time as possible while taking into account the status and biology of the depleted stock, the needs of fishing communities, and the interaction of the depleted stock within the marine ecosystem.

Alternative 3 OYs are in some cases more conservative than status quo rebuilding plans and in other cases more liberal. This is because all rebuilding plans, except the yelloweye rockfish plan during the harvest rate ramp-down period, specify a constant harvest rate strategy as recommended by the Council's SSC and National Standard 1 guidelines. As discussed in response to Comment 11, the higher Alternative 6 OY for canary rockfish comports to the status quo rebuilding plan since that OY is determined using the specified SPR harvest rate of $F_{88.7}$%. The Alternative 3 OY, which maintains the 2007–2008 canary rockfish OY of 44 mt, is much more conservative than an OY calculated under the status quo rebuilding plan. Alternative rebuilding OYs need to be considered on a case by case basis and need to consider much more than how the OY changes from one management period to the next.

NMFS disagrees that the rebuilding plan gives priority to economic interests over rebuilding. In taking into account the needs of fishing communities, the Council and NMFS recognize that fishing communities have, for a number of years, already seen their economic activities curtailed in order to rebuild overfished species. The analysis in the DEIS provides information and analyses on individual community impacts and broader coastwide fishery impacts of groundfish fishery management focused on rebuilding overfished species. The analysis identifies classes of communities according to attributes of fishery dependence, resilience, and vulnerability. In comparing these community attributes to amounts of overfished species, target groundfish species and other target species (crab, shrimp, etc.) associated with these communities, NMFS found that there were few regions on the West Coast without a highly dependent or vulnerable groundfish fishing community.

In addition to severely reduced groundfish fishing opportunities, in May, 2008, a commercial fishery failure was declared for the West Coast salmon fishery. The unprecedented collapse of Sacramento River Fall Chinook, combined with the exceptionally poor status of coho salmon from Oregon and Washington, led officials to close all commercial and sport Chinook ocean fishing off California and most of Oregon in 2008. This 2008 salmon closure left thousands of commercial fishermen and dependent commercial and recreational businesses struggling to make ends meet. In response to a request for $290 million in disaster aid by the Governors of Washington, Oregon, and California, Congress appropriated $170 million in disaster aid to affected commercial fishermen and affected commercial and recreational businesses, including support businesses. Given the lack of opportunity for fishermen to harvest salmon in 2008, the Council and NMFS recognized that there might be an increased economic incentive to harvest West Coast groundfish stocks. Because of this, the Council and NMFS took actions to reduce cumulative trip limits for some species in open access fisheries as a conservation measure to ensure that specific OYs were not exceeded (73 FR 21057, April 18, 2008). While the salmon measures for 2009 have not yet been determined, salmon seasons off California and Oregon may be similarly constrained in 2009.

The DEIS provides a rationale for the preferred alternative. Setting harvest specifications and associated management measures is largely driven by the legal requirement to rebuild overfished species. Because of the resulting constraints that this imposes on fisheries and the fact that harvest of other stocks is constrained by the restrictions on overfished stocks, the risk that other stocks will be subjected to overfishing is minimal. For overfished stocks, the basic approach that guides the adoption of a rebuilding strategy comes from the MSA, as explained above.

Table 7–57c in the FEIS shows estimated income impacts under the different management measure alternatives by commercial and tribal fishery including non-groundfish fisheries. Income impacts are a measure of total harvesting, processing, and support activities connected with Council-managed commercial harvests and recreational angler trip expenditures. The Council-preferred alternative shows a $22 million increase in commercial personal income impacts compared to No Action. This is about a 3-percent increase in the total west coast personal income generated landings of groundfish and non-groundfish over the status quo. In terms of ''groundfish only'' impacts, income generated by the directed groundfish fisheries is about $19 million for about a 12 percent increase over the status quo. These personal income impacts are primarily based on the ex-vessel revenues projected for each of the alternatives which in turn are based on projected OYs. These projections are discussed in the RIR/IRFA associated with this action (Chapter 10 of the DEIS and FEIS) and Chapter 7 of the DEIS and FEIS. The

analysis provides projections that compare various alternatives considered including: 2007, No-Action (status quo regulations), and Council's preferred (regulations associated with this final rule). For the tribal and non-tribal commercial fleets, the Council's preferred Alternative leads to $104 million in projected ex-vessel revenues. This is $13 million greater than the No-Action Alternative projection–$91 million and $20 million greater than those earned in 2007. These increases are from the increase in the sablefish OY and the use of the 2008 whiting OY for projecting the 2009 and 2010 whiting OYs. In 2007, the commercial and tribal fleets harvested 5,200 mt of the 5,900 mt sablefish OY and received about $21 million in ex-vessel revenues. The proposed 2009–10 sablefish OYs are about 8,400 mt each—a 46 percent increase. In 2007, whiting vessels harvested about 86 percent of the 243,000 mt OY, earning about $39 million in ex-vessel revenues. The 2008 OY is 269,000 mt—an 11 percent increase.

The Council's analysis provides impacts by gear group or fishery. (The Council's analysis also provides impacts by fishing communities-showing estimates by 18 community/port groups which encompass about 63 individual ports. This analysis is not presented here.) Under these proposed regulations, the projected commercial ex-vessel revenues for the non-tribal directed groundfish groups are about $90 million yearly. These figures represent slight increases from the No-Action (status quo) alternative. Forecast revenues for the limited entry non-whiting trawl fleet are higher than those forecast under previous years' (2007–2008) management regime. The prime reason for this increase is the increase in the sablefish OY as opposed to changes in the rebuilding species OYs. However, the proposed area-based management controls for this fishery are likely to be more limiting than those developed for the 2007–2008 fisheries. These changes will lead to a decrease in fishable area and a potential increase in the cost of fishing because vessels traveling to and fishing at deeper depths will need more fuel. Fixed gear sablefish harvesters will produce more revenue than earned in the 2007–08 period because of the higher sablefish OY. However, similar to the situation for limited entry trawlers, area management will be more restrictive and cause harvesting costs to rise. The nearshore groundfish fishery will be able to reach ex-vessel revenues that equal the status quo but also will face increased area limits. Under the proposed rules, tribal groundfish fisheries should produce the same amount of ex-vessel revenues and personal income as under the No-Action Alternative. The projected revenues earned by limited entry whiting fishery (which includes the catcher-processor fleet) are similar to those projected for the previous biennial period.

However, the potential amount of ex-vessel revenue and personal income will chiefly depend on the 2009 Pacific whiting assessment, adopted yearly by the Council during the March meeting. The Council's preferred alternative assumes that the 298,272 mt of whiting will be harvested in 2009. In 2007, 86 percent of the 2007 243,000 mt OY was harvested and the analysis forecasted that 60 percent of the 2008 OY of 269,000 mt would be harvested. Most recent estimates of the 2008 fishery indicate that 92 percent of 2008 OY was harvested. In January 2009, whiting stock assessment scientists have started developing the Pacific whiting assessment. Early indications are that the OY for Pacific whiting will not increase but decrease from 2009 levels. Consequently the Council projections of $22 million increase in personal income may actually be closer to $14 million if actual 2008 final whiting harvests and 2009 OYs are applied based on Tables 7–57c of the FEIS.

For the coastwide recreational fishery, the projected number of charterboat and private angler trips associated with this rule is higher under the preferred alternative compared to the No Action alternative and are less than in 2007 (See FEIS Tables 7–65 a, b, and c). Under the No Action Alternative, 1.2 million angler trips are projected. These trips would lead to an estimated $114 million in angler expenditures and $90 million in personal income (profits, wages, and other income that result from angler expenditures and remain in fishing communities). Under the Council-preferred Alternative, anglers will take an estimated 1.27 million trips and spend $118 million and yield $93 million in personal income. This is an increase of 3 percent compared to No Action alternative but lower than the 2007 levels of expenditure ($122 million) and personal income ($96 million). As groundfish are caught in targeted bottomfish trips and in targeted trips for halibut, salmon, tuna and other species, these estimates are projections for the total west coast recreational fishery. For groundfish-targeted trips only, the No Action Alternative leads to $48 million in personal income. This is slightly down from 2007 levels of $51 million. Charterboats are considered small businesses. Under these proposed regulations, coastwide, the projected annual number of charterboat trips for all species is 399,000 trips. This is a decrease from 2007 levels of 414,000 trips and a slight increase from the No-Action level of 392,000 trips. The impacts to the recreational sectors are driven by the OYs for yelloweye rockfish, canary rockfish, and to a lesser extent bocaccio and widow rockfish. The 2009–10 yelloweye rockfish OYs under the final Council preferred alternative represent a decrease of 3 mt from No Action levels. Management measures designed so as not to exceed the yelloweye rockfish OY also keep recreational catch within harvest guidelines for other potentially constraining species, such as canary rockfish. The proposed yelloweye bycatch reduction measures include restricting recreational fisheries to depths shallower than 20 fm in certain areas and/or during certain months and expanding areas to protect yelloweye rockfish.

The Council-preferred alternative, in comparison to No Action, continues current rebuilding strategies for most overfished species with an increase in positive short-term socioeconomic impacts (assuming that the whiting fishery is prosecuted at levels similar to past years). As discussed above, and in the FEIS and related documents, lower OYs and associated management measures could result in shorter rebuilding periods for overfished species; however, the Council and NMFS also considered the needs of fishing communities along the entire West Coast in selecting its preferred alternative. The cumulative decline in revenue and income over the past decade has been significant and the small increases in projected revenue are justified. Additional reductions in revenue due to additional management restrictions would likely have significant short-term socioeconomic impacts. The rationale for adopting the preferred alternative is therefore consistent with the comprehensive requirements of the MSA at § 304(e)(4)(A).

Comment 15: The Four Organizations urged NMFS to implement management changes recommended by scientists to address the challenges and uncertainties that climate change and ocean acidification bring.

Response: NMFS agrees there are great challenges and uncertainties associated with climate change and ocean acidification. Potential long term changes to marine ecosystems brought about by climate change and ocean acidification were considered in our management decision. As stated in our

response to comments in the FEIS, relevant observations on climate change are included in Chapter 5 of the Supplemental Comprehensive Analysis to the Federal Columbia River Power System Biological Opinion, 2008 (*http://www.nwr.noaa.gov/Salmon-Hydropower/Columbia-Snake-Basin/Final-BOs.cfm*). Inter-annual climatic variations (*e.g.* El Niño and La Niña), longer term cycles in ocean conditions (*e.g.* Pacific Decadal Oscillation), and ongoing global climate change have implications for marine habitats and groundfish species. These phenomena are an area of substantial scientific investigation. Scientific evidence strongly suggests that global climate change is already altering marine ecosystems from the tropics to polar seas. Physical changes associated with warming include increases in ocean temperature, increased stratification of the water column, and changes in the intensity and timing of coastal upwelling. These changes will alter primary and secondary productivity, and the structure of marine communities. NMFS believes that the west coast groundfish fishery is conservatively managed and we will continue to pursue the necessary research and adaptive management strategies to best address a changing marine ecosystem.

Comment 16: The Four Organizations urged NMFS to analyze an option to increase intersector allocation to the fixed gear fleet by 25–30 percent, as fixed gear generally causes orders of magnitude less bycatch and habitat destruction than trawl gear.

Response: Intersector allocations are being considered in a separate ongoing process under FMP Amendment 21. We anticipate an alternative will be analyzed that will address an increase in allocation to fixed gear. Consideration of habitat impacts associated with different gear types and effects of long term sector allocations on west coast fishing communities will be considered in that process.

Comment 17: The Four Organizations urged NMFS to reduce the cowcod OY to 3 mt to reflect the new, more pessimistic understanding of the species's unfished biomass. The Four Organizations assert that NMFS has made no adjustments in rebuilding specifications in order to be precautionary or responsive to the change in unfished biomass from 18 percent to 4.6 percent.

Response: The 2007 cowcod assessment incorporated a suite of corrections and changes to the previous assessment (2005), resulting in revised estimates of several management reference points. The change in perception of stock status is reflected in the results of the revised rebuilding analysis. Due to technical flaws in the 2005 assessment, a direct comparison of revised rebuilding parameters to status quo values is inappropriate and misleading.

The revised rebuilding analysis identifies a median rebuilding year of 2069 with a 3 mt OY and a median rebuilding year of 2072 with a 4 mt OY. The median time to rebuild the stock if all fishing-related mortality were eliminated beginning in 2009 ($T_{F=0}$) is 2061.

Cowcod is the most constraining species in the southern trawl fishery, and in past years catch of cowcod in this fishery has been highly variable and unpredictable. While the average cowcod mortality in the trawl fishery is only 1.3 mt, catches have been as high as 2.1 mt in recent years. When combined with the total mortality from all sectors of the fishery, this variation would not be accommodated by a 3 mt OY. Therefore, additional fishery restrictions would be necessary if a 3 mt cowcod OY were adopted. Additional restrictions would not be necessary with a 4 mt OY, and the median time to rebuild is only extended by three years.

Comment 18: The Four Organizations urged NMFS to analyze the effect that the trawl individual quota (TIQ) program is likely to have on communities identified as vulnerable in the specifications process to determine if a higher OY (and thus a longer rebuilding period) will actually preserve these communities.

Response: The TIQ program is being considered in a separate ongoing process under FMP Amendment 22. We anticipate that alternatives will be analyzed to address the effects that the program will have on communities, including those identified as vulnerable in previous analyses. Such considerations as rebuilding overfished species and effects of overfished species allocations on west coast fishing communities will be considered in that process. One of the purposes of the Adaptive Management portion of the TIQ program is for the deployment and use of quotas specifically set aside to mitigate for unforeseen impacts upon communities.

Comment 19: The Four Organizations described the need to develop Annual Catch Limits (ACLs) and encouraged NMFS to begin integrating these requirements into the harvest specifications for 2009–2010.

Response: NMFS appreciates the perspectives provided by the Four Organizations on the ACL rule. However, the ACL rule and NMFS associated actions in response are not part of the final action on harvest specifications and management measures for 2009–2010; ACLs will be addressed by the Council and NMFS during the next several years.

Comment 20: The Four Organizations assert, using information on the groundfish trawl fishery, that the groundfish fishery has stabilized as evidenced by increasing average revenues per vessel in comparison to 1995 and 1996, and in particular since implementation of the 2002 Buyback Program.

Response: It is not clear that the groundfish trawl fishery has stabilized. While it is true that the Pacific Coast Groundfish LE Trawl Fishery Rationalization Decision Document (October 2008) at page 140 stated that ''Exvessel revenues in the fishery peaked in the mid 1990s at over $60 million. Following the passage of the Sustainable Fisheries Act (1996) and the listing of several species as overfished, harvests became increasingly restricted and landings and revenues declined steadily until 2002. Since 2002 exvessel revenues have stabilized at around $23–27 million per year.'' It should be noted that the per-vessel trend analysis that the Four Organizations refer to did not account for inflation nor for changes in the costs of fishing, particularly fuel prices which until recently have increased tremendously and buyback loan fees which have been incurred by the industry. Since September 2005, there has been the imposition of a federal 5 percent ex-vessel revenue fee on ground fish trawl landings for purposes of repaying the $36 million loan associated with the 2002 trawl buyback program. Depending on the state of landing, similar or lesser fees are associated with landings of crab and shrimp. According to Table 7–46 in the FEIS, Oregon June fuel prices increased from $0.93 per gallon in 1999 to over $2.20 a gallon in 2005 with most of the increase occurring in 2004 and 2005 as 2003 prices were about $1.12 per gallon. Recent estimates by the Pacific States Marine Fisheries Commission show that prices continued to increase through June of 2008 to about $4.20 per gallon and have since declined to $2.80 per gallon. (Note that California and Washington fuel prices tend be higher than Oregon prices.) The Four Organizations cite the conclusion that ''the fleet reduction and cost efficiency model shows that the consolidation that may occur could diminish the number of vessels by 50 to 66 percent or to a non-whiting fleet size that is somewhere on the order of 40–60 vessels.'' This

model was based on analysis of the 2004 trawl fishery. After taking into account landings of flatfish, crab, shrimp, whiting and other groundfish, one of the conclusions was that groundfish vessels either suffered a loss of about $2.5 million in 2004 or broke even in 2004 depending on the assumption of the annual rate of return to vessel capital investment.

Three additional perspectives should be noted. First is that the Four Organizations focused this comment on the trawl sector whereas the Council took into account all sectors of the fishery, including the non-trawl sector and the recreational sector. Second, although reducing capacity leads to fewer vessels that have higher trip limits and generally improved economics of the trawl fleet, more important indicators for fishing communities are the total flow of fish and revenue to the community and the resulting amount of income that is generated. Finally, the third perspective is that since Council adoption of the 2009–10 OYs in June of 2008, the national economy has moved into a serious recession. It is a reasonable expectation that the impacts of a declining national economy include reduced demand for seafood and therefore lower prices and revenues to the commercial industry and reduced participation in the recreational fishery.

Santa Monica Seafood

Comment 21: Santa Monica Seafood urges NMFS to reconsider the proposed catch levels and adopt more precautionary and risk averse catch levels for canary, darkblotched, and yelloweye rockfish. They also urged NMFS to account for uncertainty and to rebuild overfished species populations as quickly as possible.

Response: As described in the responses above, the rebuilding approach takes a precautionary approach and is designed to rebuild the overfished stocks consistent with legal requirements.

Changes From the Proposed Rule

The three states submitted comments on the proposed rule, and those comments are addressed in the response to comments section as well as this section due to changes from the proposed rule as a result of those comments.

The proposed rule included revisions to the California recreational management measures, and the regulations at § 660.384 (c)(3). The California Department of Fish and Game(CDFG) provided comments regarding this section, pointing out several minor errors, inconsistencies between current regulations that were not proposed to be revised, and inconsistencies with the Council recommendations.

In this final rule NMFS is correcting the latitudinal coordinate for Point Arena in § 660.384 (c)(3)(i)(A)(*2*) and (*3*) from 38°57′ N. lat. to 38°57.50′ N. lat. so that it is consistent with the definition of ''Point Arena, CA'' as defined in the list of commonly used geographic coordinates listed at § 660.302.

In § 660.384 (c)(3)(i)(A)(*2*), an editing error introduced language that referred to the closed areas around the Farallon Islands and Cordell Banks. These groundfish conservation areas, as defined in § 660.390, are not in the North-Central North of Point Arena Region. Therefore, the references to the Farallon Islands and Cordell Banks were removed from this paragraph.

In § 660.384 (c)(3)(ii)(B), NMFS proposed recreational management measures in the California recreational rockfish, cabezon, and greenling (RCG complex) fishery. These proposed regulations included a description of measures for the area between 42° and 40°10′ N. lat. and the area south of 40°10′ N. lat. CDFG commented that since the measures described were identical, both north and south, that NMFS should revise the paragraph to have those measures apply for the entire state. Therefore, NMFS is removing language from § 660.384 (c)(3)(ii)(B) regarding fish per day limits in the area north and south of 40°10′ N. lat. because the limits are the same north and south.

CDFG also noted that the ''other flatfish'' regulations at § 660.384 (c)(3)(iv) in the proposed rule listed a gear restriction of ''2 hooks and 1 line when fishing for other flatfish''. CDFG noted that no gear restrictions for other flatfish were recommended by the Council. Therefore, NMFS removed the gear restriction language of 2 hooks and 1 line for ''other flatfish'' in § 660.384 (3)(iv).

The states of Oregon and California both had comments pertaining to the ABC/OY tables, Tables 1a, 1b, 1c, 2a, 2b, and 2c to part 660 subpart G. Some of the suggested corrections were typographic errors and errors in table formatting that occurred upon publication in the **Federal Register**. The following typographic and non-substantive corrections were made: the titles of tables 2B and 2C are corrected to read 2010 instead of 2008; in Table 1a, the portion of the lingcod ABC for the Vancouver Columbia areas (Columns 1 and 2) of 4,473 mt was listed one row too low, and is moved up one row in order to be listed in the correct area of the coast; in Table 1a, the coastwide ABC and OY values for lingcod were re-formatted, in order to visually represent their coastwide nature; and footnote hh/ to Tables 1 and 2 are revised to correct grammatical errors and to correct transposed numbers. Some of the comments from the two states are intended to correct some of the specifications that were incorrect in the proposed rule, as they were inconsistent with the specifications recommended by the Council. Additional corrections, therefore, are made to the ABC/OY tables in this final rule to make them consistent with the Council recommendations and the final preferred alternative analyzed in the FEIS: in Table 2a, the sablefish OY is changed in the area north of 36° N. lat. from 5,824 mt to 6,471 mt; in Table 2a, the ABC in both columns for the Monterey Conception area for minor rockfish north of 36° N. lat. is changed from 3,384 mt to 3,382 mt; in Table 2c, the commercial HG for sablefish north of 36° N. lat. is changed from 5,824 mt to 6,471 mt; in Table 2c, the sablefish limited entry HG north of 36° N. lat. is changed from 5,276 mt to 5,863 mt; in Table 2c, the sablefish limited entry HG north of 36° N. lat. is changed from 548 mt to 608 mt; and corrections to the footnotes of Table 2, for lingcod, sablefish, cabezon, Dover sole, pacific ocean perch (POP), and yelloweye are also made to be consistent with the Council recommendations and the final preferred alternative analyzed in the FEIS.

As part of the proposed rule, NMFS proposed management measures that would expand the non-trawl RCA off part of the coast of Oregon to close fishing in an area where relatively high bycatch of yelloweye rockfish occurred. This management measure was developed using West Coast Groundfish Observer Program (WCGOP) data, stratified north and south of the Columbia-Eureka management line at 43° N. lat., as defined in § 660.302. The Oregon Department of Fish and Wildlife (ODFW) commented that the non-trawl Rockfish Conservation Area (RCA) boundaries described in Tables 4 (North) and 5 (South) in the proposed rule were inconsistent with the Council recommendation to divide the RCA boundary, in a consistent manner with the WCGOP data analysis, at 43° N. lat. Therefore, the RCA boundaries off the Oregon Coast are no longer divided at 42°50′ N. lat., but divided at 43° N. lat., or the Columbia-Eureka line (as defined in § 660.302).

At their June 2008 meeting, the Council recommended an incidental allowance of lingcod for the salmon troll

fishery. WDFW commented that this allowance was not reflected in Table 5 (North). NMFS described the incidental lingcod allowance to salmon trollers at a ratio of ''1 lingcod per 15 Chinook, plus 1 lingcod up to a trip limit of 10 lingcod, up to a maximum limit of 400 lbs (181.4 kg) per month'' in the preamble to the proposed rule, however this regulation was not proposed in Table 5 (North). Therefore, incidental lingcod allowance in the salmon troll fishery is added to Table 5 (North).

During development of the 2009–2010 fishery management measures, the Council and NMFS considered the most recently available scientific information on bronzespotted rockfish (*Sebastes gilli*). This analysis showed that concern for the health of the stock was warranted. Analysis of age and length information indicate that bronzespotted rockfish are very slow growing with high longevity; a life history pattern similar to cowcod. Species with these traits are commonly associated with high vulnerability to overfishing. Recent analysis of historical and current catch information indicated that landings of bronzespotted rockfish dropped rapidly in the 1980s and has remained at very low levels from 1990 to the present. Bronzespotted rockfish primarily occur in Southern California waters and are caught in commercial and recreational fisheries. Additional details on these analyses can be found in the FEIS in section 4.3.4.1. The Council recommended non-retention of bronzespotted rockfish as a new management measure to respond to concerns about the health of the stock. A non-retention policy should encourage vessels that encounter this species to move to a different area. Since this species is known to occupy similar depths and habitats as cowcod, this measure could potentially reduce harvest of both bronzespotted rockfish and cowcod. In addition, the Cowcod Conservation Areas that have been in place since 2001 likely provide existing protections to co-occurring bronzespotted rockfish. In the proposed rule, regulatory language at § 660.384 (c)(3)(iii)(B) mistakenly neglected to add bronzespotted rockfish to the list of species that may not be retained in the California recreational fishery. In addition, Tables 3 (South), 4 (South), and 5 (South) mistakenly neglected to include indication that bronzespotted rockfish could not be retained in 2009–2010 (i.e. listed as ''closed'') in the commercial trawl and commercial non-trawl fisheries south of 40°10′ N. lat. This non-retention policy, which ''closes'' or sets the trip limit to zero for bronzespotted rockfish, is an important conservation measure to protect this species, and may reduce fishery impacts to cowcod as well. In addition, some of the public comments on the Draft EIS and the proposed rule stated their support of this non-retention policy. Therefore, in response to these comments, and because it was part of the Council recommended management measures for 2009–2010 and analyzed in the EIS, regulatory language at § 660.384 (c)(3)(iii)(B) is revised to add bronzespotted rockfish to the list of species that may not be retained in the California recreational fishery. Also, NMFS adds species specific trip limits for bronzespotted rockfish, to designate it as ''closed'', in Tables 3 (South), 4 (South), and 5 (South).

In addition to the above mentioned changes that were made in response to public comments, NMFS is also correcting the limited entry sablefish tier limits for 2009–2010. As part of the biennial specifications and management measures process, NMFS determines annual sablefish tier limits for the limited entry fixed gear sablefish-endorsed fleet. This was done as part of the 2009–2010 specifications and management measures, and 2009 and 2010 annual sablefish tier limits were proposed as described in the preamble to the proposed rule that published on December 31, 2008 (73 FR 80516). The preamble describes the 2009–2010 tier limits as being higher than in 2007–2008, reflecting the higher sablefish OY established by the 2009–2010 harvest specifications, and lists three sablefish annual tier limits for 2009 and 2010, respectively. Sablefish primary season tier limits are also published in the codified regulations, at 50 CFR 660.372 (b)(3)(i). NMFS mistakenly omitted these changes to the tier limits, as described in the preamble, when proposing changes to regulatory language in the December 31, 2008 proposed rule. Therefore, NMFS has corrected the proposed changes to regulatory text in § 660.372 by revising paragraph (b)(3)(i) to include the new 2009 and 2010 sablefish annual tier limits, as described in the preamble to the proposed rule.

The proposed rule included revisions to the latitude and longitude coordinates that define the lines approximating the depth contours at §§ 660.391 through 660.394 that were proposed by the states, and recommended by the Council. In addition to the changes included in the proposed rule, NMFS is adding latitude and longitude coordinates to the existing lines that approximate the depth contours in this final rule. Using a mathematical formula, NMFS is adding coordinate points that lie along existing lines, so that they have a defining point at some specific latitudes, described as ''commonly used geographic coordinates'' at § 660.302. These additional coordinates do not change the applicability, meaning, or location of the lines that approximate the depth contours, but are intended to provide a breaking point for instances when an RCA boundary is shifted seaward or shoreward, broken at one of these commonly used geographic coordinates. For simplicity in the amendatory language in this final rule, and to prevent errors and increase clarity when these revisions are incorporated into the CFR, the final coordinates are published in their entirety.

The definition of ''Processor'' at § 660.302 is inserted in this final rule, because it had been inadvertently dropped in 2006 without any explanation. This definition is also in the Pacific Coast Groundfish FMP. In addition, two paragraphs under ''Processing or to process'' are being reprinted for clarity. Following the Council's June 2008 meeting, Sustainable Fisheries Division (SFD) of NMFS, Northwest Region, deliberated on how to complete the harvest specifications and management measures for 2009–2010. SFD staff reviewed the tasks relative to a final rule implementation date of January 1, 2009. Given the complexity of the task, along with the other work of the division, it was determined that there was not enough time to complete the draft EIS; prepare and publish proposed and final rules; and allow adequate time for the public to review the documents and provide comment, and for NMFS to consider and to respond to public comment before January 1, 2009. In this situation, the Pacific Coast groundfish FMP states that the current harvest specifications and management measures remain in place until replaced or modified. Specifically, the 2008 ABC and OYs would remain in place. In addition, the 2008 trip limit tables would also remain in place, but could be modified as necessary by inseason actions based on the most current fishery information in order to ensure harvests stayed within the 2008 OYs. During these deliberations, the SFD staff considered the conservation and management implications of delaying the effective date until March 1, 2009.

During these deliberations, SFD prepared a side-by-side comparison of the trip limits that had been in place in 2008 for January–February (period one) and the limits recommended by the

Council in the management measures for period one in 2009 to better understand the implications of delaying the action. In addition to the side-by-side comparison, other factors informed the agency decision, including the OY levels proposed for 2009. NMFS goals were to ensure that no conservation problems would be caused by the delay, and to understand other potential effects on the fishery.

The most significant differences in trip limits proposed for period one were increased trawl limits for Dover sole, arrowtooth flounder, and some other flatfish due to a proposed increase in the canary rockfish OY for 2009. There was also a recommended reduction in the petrale sole limits in period one. The petrale OYs for 2008 and 2009 were very similar, so the trip limit reduction was to allow opportunity later in the year because prior year harvests revealed petrale catch was too high in period one. Finally, fixed-gear and open access RCAs were proposed to be expanded in 2009. The 2008 yelloweye OY was 20 mt. Under the status-quo rebuilding plan, the 2009 OY for yelloweye is to be 17 mt, as described in the proposed rule. Yelloweye is taken primarily in the recreational fisheries and the line fisheries. There is almost no recreational fishing in period one, and very little line fishing in yelloweye areas in period one, so this potential change did not seem to be a problem. All of these factors together led SFD staff to conclude that delaying the effective date of the action by two months would not pose any conservation concerns. In addition, there is a low level of fishing that occurs during the first period of the year and thus the likelihood of significant economic impacts to fishermen not able to access higher trip limits would be low and any economic losses to fishermen could be offset by greater opportunity to the fleet later in 2009.

NOAA Fisheries notified the Council that the 2009–2010 harvest specifications would not be effective on January 1, 2009 and thus the Council would have to manage the 2009 period one fishery based on the 2008 OYs and management measures. However, the management measures could be adjusted based on inseason information. Based on the best available fishery information at the November 2008 meeting, the Council recommended inseason adjustments to management measures to ensure that the fishery stayed within the 2008 harvest specifications (most of which were more conservative than those being proposed for 2009). The Council recommended increases to some limits for sablefish and longspine thornyheads because the fisheries had come in below the OYs in 2008. The Council also recommended lowering the trip limits for petrale sole because of the excessive petrale sole harvest in period one in 2008. The Council did not recommend other increases to fisheries, particularly flatfish fishing, because those increases that had been proposed for 2009 depended on the higher canary OY proposed for 2009. Finally, even though there is very little line fishing in period one, the Council recommended the expanded RCA that had been proposed in order to ensure the 2009 mortality stayed within the Amendment 16–4 rebuilding plan. The Council specifically did not recommend higher trip limits for other species for which the 2008 OYs of either the target or incidental catch species would not accommodate the higher trip limits that had been included in the proposed rule. See Agenda Item F.1.b, Supplemental GMT Report, November 2008.

NOAA Fisheries approved the council recommendation for January-February 2009 measures on December 24, 2008 (73 FR 79008). Fishing Mortality that occurs during January and February will be taken into account in the total mortality estimates for 2009, and will count towards the ABCs and OYs ultimately implemented for 2009.

Classification

The Administrator, Northwest Region, NMFS, has determined that the 2009–2010 groundfish harvest specifications and management measures, which this final rule implements, are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

An FEIS was prepared for the 2009–2010 groundfish harvest specifications and management measures. The FEIS was filed with the Environmental Protection Agency on January 16, 2009. The FEIS includes an RIR and an IRFA. The Environmental Protection Agency published a notice of availability for the FEIS on January 23, 2009 (74 FR 4195.) A copy of the FEIS is available online at *http://www.pcouncil.org/*. In approving the 2009–2010 groundfish harvest specifications and management measures, NMFS issued a Record of Decision (ROD) identifying the selected alternatives. A copy of the ROD is available from NMFS (see **ADDRESSES**).

As discussed above in Changes From the Proposed Rule, there was not adequate time, given the complexity of the rulemaking and associated documentation and other work, to have this final rule effective by January 1, 2009. Therefore the 2008 specifications and management measures remained in place for the January-February cumulative limit period, except that routine adjustments to fishery management measures, within the scope of the 2007–2008 regulations, were made. At the time NMFS anticipated that this final rule would implement the 2009–2010 biennial specifications and management measures beginning on March 1, 2009. If this final rule is not effective by March 1, 2009, specifications and management measures that were in effect March 1, 2008, will remain in place. The fishery specifications and management measures from March 2008 were based on the best scientific information at the time, and in some cases do not accurately reflect the current information. The 2009–2010 groundfish harvest specifications and management measures are intended to rebuild overfished stocks as quickly as possible, taking into account the appropriate factors. NMFS utilizes the most recently available fishery information, scientific information, and stock assessments, to implement specifications and management measures biennially. Generally these management measures are implemented on January 1 of odd numbered years. The 2009–2010 specifications and management measures were developed using the most recently available scientific information, stock assessments, and fishery information and therefore reflect the current status of the stock being managed. NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective March 1, 2009. Leaving the 2008 harvest specifications and management measures in place could: cause harm to some stocks because those management measures are not based on the most current scientific information; or cause drastic management changes later in the year to prevent exceeding some lower 2009 OYs once they are implemented. For example, the yelloweye rockfish OY is lower in 2009–2010 than it was in 2008 and constrains commercial and recreational hook-and-line fisheries north of Cape Mendocino, California. Therefore, management measures tailored to higher 2008 specifications could allow increased harvest of yelloweye rockfish, and increase the risk of exceeding the lower 2009 OY or causing more severe closures later in the year. A non-retention policy for bronzespotted rockfish must be implemented in a timely manner to reduce fishery impacts on this stock, for which there are concerns regarding the

health of the stock. The commercial fishery is managed with two-month cumulative limits, so even a short delay in effectiveness could allow the fleets to harvest the entire period 2 (March-April) two-month limit before the 2009–2010 measures are effective. Delaying the effectiveness of this rule would also be confusing to the public, since it would result in a change in trip limits in the midst of the two-month March-April cumulative trip limit period. Finally, a delay in the effectiveness of these measures could require unnecessarily restrictive measures later in the year, including possible fishery closures, to make up for excessive harvest that would be allowed under the 2007–2008 management measures and specifications. Thus, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities. These reasons constitute good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30 days after date of publication.

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

This final rule has been determined to be not significant for purposes of Executive Order 12866. NMFS prepared a final Regulatory Flexibility Analysis (FRFA) as part of the regulatory impact review. Among other things, the FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), the comments and responses to the proposed rule, and a summary of the analyses completed to support the action. A copy of the FRFA is available from NMFS (see ADDRESSES) and a summary of the FRFA, per the requirements of 5 U.S.C. 604(a) follows: It is estimated that implementation of the Council's preferred alternative will affect about 2,600 small entities. These small entities are those that are directly regulated by the proposed rule that will be promulgated to support implementation of the Council's preferred alternative. These entities are associated with those vessels that either target groundfish or harvest groundfish as bycatch. Consequently, these are the vessels, other than catcher-processors, that participate in the limited entry portion of the fishery, the open access fishery, the charterboat fleet, and the tribal fleets. Catcher-processors also operate in the Alaska Pollock fishery, and all are entities associated with larger companies such as Trident and American Seafoods. Therefore, it is assumed that all catcher-processors are ''large'' entities.

Best estimates of the limited entry groundfish fleet are taken from the NMFS Limited Entry Permits Office. As of July 2006, there are 403 limited entry permits including 179 endorsed for trawl (174 trawl only, 4 trawl and longline, and 1 trawl and trap-pot); 198 endorsed for longline (193 longline only, 4 longline and trap-pot, and 4 trawl and longline); 32 endorsed for trap-pot (27 trap-pot only, 4 longline and trap-pot, and 1 trawl and trap-pot). Of the longline and trap-pot permits, 164 are sablefish endorsed. Of these endorsements 126 are ''stacked'' on 50 vessels. Eight of these permits are used or owned by Catcher-processor companies associated with the whiting fishery. The remaining 395 entities are assumed to be small businesses based on a review of sector revenues and average revenues per entity. The open access or nearshore fleet, depending on the year and level of participation, is estimated to be about 1,300 to 1,600 vessels. Again these are assumed to be ''small entities''. The tribal fleet includes about 53 vessels, and the charterboat fleet includes 525 vessels that are also assumed to be ''small entities''.

The purposes of an IRFA and FRFA include documenting effects on small businesses and efforts to mitigate impacts upon small businesses/entities. The final Council-preferred alternative represents the Council's efforts to address the directions provided by the Ninth Circuit Court of Appeals which require a revised approach and emphasizes the need to rebuild stocks in as short a time as possible, taking into account: (1) The status and biology of the stocks, (2) the needs of fishing communities, and (3) interactions of depleted stocks within the marine ecosystem. When the Council was taking into account the ''needs of fishing communities'' it was also simultaneously taking into account the ''needs of small businesses'' as fishing communities rely on small businesses as a source of economic income and activity. For example, the Council's three-meeting process for selecting the preferred alternative, as well as the Council's consideration of a yelloweye rockfish ''ramp down'' strategy and creation of additional Yelloweye Rockfish Conservation Areas can be seen as means of trying to mitigate impacts of the proposed rule on small entities while addressing the directions of the Court and the requirements of the Magnuson Act. Comments 5 and 6 above are also reflective of the processes undertaken. Through these actions, the Council was able to consider the trade-off between rebuilding periods (need to rebuild as fast as possible) and the effects on communities (taking into account the needs of fishing communities) and small businesses. Additional management measures were adopted to assure the OYs are not exceeded (which in turn would affect the communities and small businesses). The suite of OYs and management measures allows fishing sectors to continue, and prevents major closures of fisheries and the associated harm to communities and their small businesses.

There are no new reporting, record-keeping, or other compliance requirements in the final rule. Within its recommendations for the 2009–2010 Specifications and Management measures, the Council recommended mandatory logbooks for the limited entry and open access fixed gear fishing fleets. However, development and implementation of a Federal logbook system would take more time than is available for this rulemaking and will be considered for implementation in the future. References to collections-of-information made in this action are intended to properly cite those collections in Federal regulations, and not to alter their effect in any way.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS reinitiated a formal ESA section 7 consultation in 2005 for both the Pacific whiting midwater trawl fishery and the groundfish bottom trawl fishery. The December 19, 1999 Biological Opinion had defined an 11,000 Chinook incidental take threshold for the Pacific whiting fishery. During the 2005 Pacific whiting season, the 11,000 Chinook incidental take threshold was exceeded, triggering reinitiation. Also in 2005, new WCGOP data became available, allowing NMFS to complete an analysis of salmon take in the bottom trawl fishery.

NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the Pacific whiting midwater trawl and groundfish bottom trawl fisheries. In its 2006 Supplemental Biological Opinion, NMFS concluded that catch rates of salmon in the 2005 whiting fishery were consistent with expectations considered during prior consultations. Chinook bycatch has averaged about 7,300 over the last 15 years and has only occasionally exceeded the reinitiation trigger of 11,000. Since 1999, annual Chinook bycatch has averaged about 8,450. The Chinook Evolutionarily Significant Units (ESUs) most likely affected by the whiting fishery have generally improved in status since the 1999 ESA section 7 consultation. Although these species remain at risk, as indicated by their ESA listing, NMFS concluded that the higher observed bycatch in 2005 does not require a reconsideration of its prior ''no jeopardy'' conclusion with respect to the fishery. For the groundfish bottom trawl fishery, NMFS concluded that incidental take in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP is not likely to jeopardize the continued existence of any of the affected ESUs.

Lower Columbia River coho (70 FR 37160, June 28, 2005) were recently listed and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead. The Southern Distinct Population Segment (DPS) of green sturgeon (71 FR 17757, April 7, 2006) were also recently listed as threatened under the ESA. As a consequence, NMFS has reinitiated its Section 7 consultation on the PFMC's Groundfish FMP.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the FMP request new allocations or regulations specific to the tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.324(d) further state ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The tribal management measures in this final rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the non-whiting tribal management measures, which was passed by the Council. Those management measures, which were developed and proposed by the tribes, are included in this final rule. The tribal whiting set aside was based on the requests from the affected tribes at the June meeting.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: February 25, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. In § 660.302, paragraph (2)(x) of the definitions for ''North-South management area'', the definition for ''Processing or to process'' and the definition for ''Prohibited species'' are revised, and the definition for ''Processor'' is added in alphabetical order to read as follows:

§ 660.302 Definitions.

* * * * *

North-South management area * * *

(2) * * *

(x) Cape Arago, OR—43°20.83′ N. lat.

* * * * *

Processing or to process means the preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done. (Also see an exception to certain requirements at § 660.373 (a)(iii) pertaining to Pacific whiting shoreside vessels 75-ft (23-m) or less LOA that, in addition to heading and gutting, remove the tails and freeze catch at sea.)

(1) At-sea processing means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shore-based or on the water.

(2) Shore-based processing or processing in the shore-based sector means processing that takes place at a facility that is permanently fixed to land.

Processor means person, vessel, or facility that engages in processing; or receives live groundfish directly from a fishing vessel for retail sale without further processing.

Prohibited species means those species and species groups whose retention is prohibited unless authorized by provisions of this section or other applicable law. The following are prohibited species: Any species of salmonid, Pacific halibut, Dungeness crab caught seaward of Washington or Oregon, and groundfish species or species groups under the PCGFMP for which quotas have been achieved and/or the fishery closed.

* * * * *

■ 3. In § 660.303, paragraph (c) is revised to read as follows:

§ 660.303 Reporting and recordkeeping.

* * * * *

(c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a

landing occurred and for 15 days thereafter. For participants in the primary sablefish season (detailed at § 660.372(b)), the cumulative limit period to which this requirement applies is April 1 through October 31 or, for an individual permit holder, when that permit holder's tier limit is attained, whichever is earlier.

* * * * *

■ 4. In § 660.306, a new paragraph (f)(7) is added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(f) * * *

(7) Sort or discard any portion of the catch taken by a catcher vessel in the mothership sector prior to the catch being received on a mothership, and prior to the observer being provided access to the unsorted catch, with the exception of minor amounts of catch that are lost when the codend is separated from the net and prepared for transfer.

* * * * *

■ 5. In § 660.314, paragraphs (c)(1), (d)(3)(iii) introductory text, (d)(3)(iii)(B), and (e) introductory text are revised to read as follows:

§ 660.314 Groundfish observer program.

(c) * * *

(1) NMFS-certified observers.

(i) A catcher/processor or mothership 125-ft (38.1-m) LOA or longer must carry two NMFS-certified observers, and a catcher-processor or mothership shorter than 125-ft (38.1-m) LOA must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

(ii) A Pacific whiting shoreside vessel that sorts catch at sea must carry one NMFS-certified observer, from the time the vessel leaves port on a trip in which the catch is sorted at sea to the time that all catch from that trip has been offloaded.

* * * * *

(d) * * *

(3) * * *

(iii) *Hardware and software.* Pacific whiting vessels that are required to carry one or more NMFS-certified observers under provisions at paragraphs (c)(1)(i) and (ii) must provide hardware and software pursuant to regulations at 50 CFR 679.50(f)(1)(iii)(B)(1) and 50 CFR 679.50(f)(2), as follows:

* * * * *

(B) *NMFS-supplied software.* Ensuring that each vessel that is required to carry a NMFS-certified observer obtains the data entry software provided by the NMFS for use by the observer.

* * * * *

(e) *Procurement of observer services by catcher/processors, motherships, and Pacific whiting shoreside vessels that sort at sea.* Owners of vessels required to carry observers under provisions at paragraph (c)(1)(i) or (ii) of this section must arrange for observer services from an observer provider permitted by the North Pacific Groundfish Observer Program under 50 CFR 679.50(i), except that:

* * * * *

6. In § 660.365, paragraphs (b),(c),(d), and (g) are revised to read as follows:

§ 660.365 Overfished species rebuilding plans.

* * * * *

(b) *Canary rockfish.* The target year for rebuilding the canary rockfish stock to BMSY is 2021. The harvest control rule to be used to rebuild the canary rockfish stock is an annual SPR harvest rate of 88.7 percent.

(c) *Cowcod.* The target year for rebuilding the cowcod stock south of Point Conception to BMSY is 2072. The harvest control rule to be used to rebuild the cowcod stock is an annual SPR harvest rate of 82.1 percent.

(d) *Darkblotched rockfish.* The target year for rebuilding the darkblotched rockfish stock to BMSY is 2028. The harvest control rule to be used to rebuild the darkblotched rockfish stock is an annual SPR harvest rate of 62.1 percent.

* * * * *

(g) *Yelloweye rockfish.* The target year for rebuilding the yelloweye rockfish stock to BMSY is 2084. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual SPR harvest rate of 66.3 percent in 2009 and in 2010. Yelloweye rockfish is subject to a ramp-down strategy where the harvest level has been reduced annually from 2007 through 2009. Yelloweye rockfish will remain at the 2009 level in 2010. Beginning in 2011, yelloweye rockfish will be subject to a constant harvest rate strategy with a constant SPR harvest rate of 71.9 percent.

7. In § 660.370 paragraphs (c)(1)(ii), (d), (h)(6)(i)(A) through (C), and (h)(6)(ii)(A) through (C) are revised to read as follows:

660.370 Specifications and management measures.

* * * * *

(c) * * *

(1) * * *

(ii) *Differential trip landing limits and frequency limits based on gear type, closed seasons, and bycatch limits.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, bycatch limits may be established and adjusted to be used to close the primary season for any sector of the Pacific whiting fishery described at § 660.373(b), before the sector's Pacific whiting allocation is achieved if the applicable bycatch limit is reached. Bycatch limit amounts are specified at § 660.373(b)(4).

* * * * *

(d) *Automatic actions.* Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the **Federal Register** making the action effective if good cause exists under the APA to waive notice and comment.

(1) Automatic actions are used in the Pacific whiting fishery to:

(i) Close sectors of the fishery or to reinstate trip limits in the shore-based fishery when a whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached;

(ii) Close all sectors or a single sector of the fishery when a bycatch limit is reached or projected to be reached;

(iii) Reapportion unused Pacific whiting allocation to other sectors of the fishery;

(iv) Reapportion unused bycatch limit species to other sectors of the Pacific whiting fishery.

(v) Implement the Ocean Salmon Conservation Zone, described at § 660.373(c)(3), when NMFS projects the Pacific whiting fishery may take in excess of 11,000 Chinook within a calendar year,

(vi) Implement Pacific Whiting Bycatch Reduction Areas, described at § 660.373(c)(3), when NMFS projects a sector-specific bycatch limit will be reached before the sector's whiting allocation.

(2) [Reserved]

* * * * *

(h) * * *

(6) * * *

(i) * * *

(A) Coastwide—widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish,

black rockfish, blue rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, other fish, longnose skate, and Pacific whiting;

(B) North of 40°10′ N. lat.—POP, yellowtail rockfish;

(C) South of 40°10′ N. lat.—minor shallow nearshore rockfish, minor deeper nearshore rockfish, California scorpionfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, Pacific sanddabs, cowcod, bronzespotted rockfish and cabezon.

(ii) * * *

(A) Coastwide—widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, blue rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, longnose skate, other fish, Pacific whiting, and Pacific sanddabs;

(B) North of 40°10′ N. lat.—POP, yellowtail rockfish;

(C) South of 40°10′ N. lat.—minor shallow nearshore rockfish, minor deeper nearshore rockfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, cowcod, bronzespotted rockfish and cabezon.

* * * * *

■ 8. In § 660.372, paragraph (b)(1) and (b)(3)(i) are revised to read as follows:

§ 660.372 Fixed gear sablefish fishery management.

* * * * *

(b) * * *

(1) *Season dates.* North of 36° N. lat., the primary sablefish season for the limited entry, fixed gear, sablefish-endorsed vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, or for an individual permit holder when that permit holder's tier limit has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.370(c).

* * * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to participate in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel. If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under paragraph (c) of this section. In 2009, the following annual limits are in effect: Tier 1 at 61,296 lb (27,803 kg), Tier 2 at 27,862 lb (12,638 kg), and Tier 3 at 15,921 lb (7,221 kg). For 2010 and beyond, the following annual limits are in effect: Tier 1 at 56,081 lb (25,437 kg), Tier 2 at 25,492 lb (11,562 kg), and Tier 3 at 14,567 lb (6,648 kg).

* * * * *

■ 9. In § 660.373, paragraphs (a), (b)(3)(ii), and (b)(4) are revised, and new paragraph (c)(4) is added to read as follows:

§ 660.373 Pacific whiting (whiting) fishery management.

(a) *Sectors.* (1) The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year.

(2) The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting during a calendar year.

(3) The shore-based sector is composed of vessels that harvest whiting for delivery to Pacific whiting shoreside first receivers. Notwithstanding the other provisions of 50 CFR Part 660, Subpart G, a vessel that is 75 feet or less LOA that harvests whiting and, in addition to heading and gutting, cuts the tail off and freezes the whiting, is not considered to be a catcher/processor nor is it considered to be processing fish. Such a vessel is considered a participant in the shore-based whiting sector, and is subject to regulations and allocations for that sector.

(b) * * *

(3) * * *

(ii) If, during a primary whiting season, a whiting vessel harvests a groundfish species other than whiting for which there is a midwater trip limit, then that vessel may also harvest up to another footrope-specific limit for that species during any cumulative limit period that overlaps the start or end of the primary whiting season.

(4) *Bycatch limits in the whiting fishery.* The bycatch limits for the whiting fishery may be established, adjusted, and used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock. These limits are routine management measures under § 660.370(c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. Closure of a sector or sectors when a bycatch limit is projected to be reached is an automatic action under § 660.370(d).

(i) The whiting fishery bycatch limit is apportioned among the sectors identified in paragraph (a) of this section based on the same percentages used to allocate whiting among the sectors, established in § 660.323 (a). The sector specific bycatch limits are: for catcher/processors 6.1 mt of canary rockfish, 153.0 mt of widow rockfish, and 8.5 mt of darkblotched rockfish; for motherships 4.3 mt of canary rockfish, 108.0 mt of widow rockfish, and 6.0 mt of darkblotched rockfish; and for shore-based 7.6 mt of canary rockfish, 189.0 mt of widow rockfish, and 10.5 mt of darkblotched rockfish.

(ii) The Regional Administrator may make available for harvest to the other sectors of the whiting fishery identified in § 660.323, the amounts of a sector's bycatch limit species remaining when a sector is closed because its whiting allocation or a bycatch limit has been reached or is projected to be reached. The remaining bycatch limit species shall be redistributed in proportion to each sector's initial whiting allocation. When considering redistribution of bycatch limits between the sectors of the whiting fishery, the Regional Administrator will take into consideration the best available data on total projected fishing impacts on the bycatch limit species, as well as impacts on other groundfish species.

(iii) If a bycatch limit is reached or is projected to be reached, the following action, applicable to the sector may be taken.

(A) Catcher/processor sector. Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is

prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(B) Mothership sector. Further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(C) Shore-based sector. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shore-based sector except as authorized under a trip limit specified under § 660.370(c).

(iv) The Regional Administrator will announce in the **Federal Register** when a bycatch limit is reached, or is projected to be reached, specifying the action being taken as specified under paragraph (b)(4) of this section. The Regional Administrator will announce in the **Federal Register** any reapportionment of bycatch limit species. In order to prevent exceeding the bycatch limits or to avoid underutilizing the Pacific whiting resource, prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or reapportionment of bycatch limits species may be made effective immediately by actual notice to fishers and processors, by e-mail, Internet (*http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Whiting-Management/index.cfm*), phone, fax, letter, press release, and/or USCG Notice to Mariners (monitor channel 16 VHF), followed by publication in the **Federal Register**.

(c) * * *

(4) *Pacific Whiting Bycatch Reduction Areas.* Vessels using limited entry midwater trawl gear during the primary whiting season may be prohibited from fishing shoreward of a boundary line approximating the 75-fm (137-m), 100-fm (183-m) or 150-fm (274-m) depth contours. Latitude and longitude coordinates for the boundary lines approximating the depth contours are provided at § 660.393(a). Closures may be implemented inseason for a sector(s) through automatic action, defined at § 660.370(d), when NMFS projects that a sector will exceed a bycatch limit specified for that sector before the sector's whiting allocation is projected to be reached.

* * * * *

■ 10. In § 660.381, paragraphs (c) introductory text and (d) introductory text are revised to read as follows:

§ 660.381 Limited entry trawl fishery management measures.

* * * * *

(c) *Cumulative trip limits and prohibitions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (i.e., large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip, cumulative limit period, and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 3 (North) and Table 3 (South) provide cumulative and/or trip limits that are specific to different types of trawl gear: large footrope, small footrope (including selective flatfish), selective flatfish, midwater, and multiple types. If Table 3 (North) and Table 3 (South) provide gear specific limits for a particular species or species group, it is unlawful to take and retain, possess or land that species or species group with limited entry trawl gears other than those listed.

* * * * *

(d) *Groundfish Conservation Areas (GCAs) applicable to trawl vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.390 through 660.394. A vessel that is fishing within a GCA listed in this paragraph (d) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board the vessel. The following GCAs apply to vessels participating in the limited entry trawl fishery. Additional closed areas that specifically apply to the Pacific whiting fisheries are described at § 660.373(c).

* * * * *

■ 11. In § 660.382 paragraphs (c)(4) through (8) are redesignated as (c)(10) through (14), and new paragraphs (c)(4) through (9) are added, to read as follows:

§ 660.382 Limited entry fixed gear fishery management measures.

* * * * *

(c) * * *

(4) *Westport Offshore Recreational YRCA.* The latitude and longitude coordinates that define the Westport Offshore Recreational YRCA boundaries are specified at § 660.390. The Westport Offshore Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers.

(5) *Point St. George YRCA.* The latitude and longitude coordinates of the Point St. George YRCA boundaries are specified at § 660.390. Fishing with limited entry fixed gear is prohibited within the Point St. George YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Point St. George YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Point St. George YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the Point St. George YRCA, at any time, with or without groundfish on board.

(6) *South Reef YRCA.* The latitude and longitude coordinates of the South Reef YRCA boundaries are specified at § 660.390. Fishing with limited entry fixed gear is prohibited within the South Reef YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the South Reef YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the South Reef YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the South Reef YRCA, at any time, with or without groundfish on board.

(7) *Reading Rock YRCA.* The latitude and longitude coordinates of the Reading Rock YRCA boundaries are specified at § 660.390. Fishing with limited entry fixed gear is prohibited within the Reading Rock YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Reading Rock YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Reading Rock YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the Reading Rock YRCA, at any time, with or without groundfish on board.

(8) *Point Delgada (North) YRCA.* The latitude and longitude coordinates of the Point Delgada (North) YRCA boundaries are specified at § 660.390. Fishing with limited entry fixed gear is prohibited within the Point Delgada (North) YRCA, on dates when the

closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Point Delgada (North) YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Point Delgada (North) YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the Point Delgada (North) YRCA, at any time, with or without groundfish on board.

(9) *Point Delgada (South) YRCA.* The latitude and longitude coordinates of the Point Delgada (South) YRCA boundaries are specified at § 660.390. Fishing with limited entry fixed gear is prohibited within the Point Delgada (South) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Point Delgada (South) YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Point Delgada (South) YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the Point Delgada (South) YRCA, at any time, with or without groundfish on board.

* * * * *

■ 12. In § 660.383 paragraph (c)(4) through (10) are redesignated as (c)(10) through (16), and new paragraphs (c)(4) through (9) are added, to read as follows:

§ 660.383 Open access fishery management measures.

* * * * *

(c) * * *

(4) *Westport Offshore Recreational YRCA.* The latitude and longitude coordinates that define the Westport Offshore Recreational YRCA boundaries are specified at § 660.390. The Westport Offshore Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers.

(5) *Point St. George YRCA.* The latitude and longitude coordinates of the Point St. George YRCA boundaries are specified at § 660.390. Fishing with open access gear is prohibited within the Point St. George YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Point St. George YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Point St. George YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Open access vessels may transit through the Point St. George YRCA, at any time, with or without groundfish on board.

(6) *South Reef YRCA.* The latitude and longitude coordinates of the South Reef YRCA boundaries are specified at § 660.390. Fishing with open access gear is prohibited within the South Reef YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the South Reef YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the South Reef YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the South Reef YRCA, at any time, with or without groundfish on board.

(7) *Reading Rock YRCA.* The latitude and longitude coordinates of the Reading Rock YRCA boundaries are specified at § 660.390. Fishing with open access gear is prohibited within the Reading Rock YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Reading Rock YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Reading Rock YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the Reading Rock YRCA, at any time, with or without groundfish on board.

(8) *Point Delgada (North) YRCA.* The latitude and longitude coordinates of the Point Delgada (North) YRCA boundaries are specified at § 660.390. Fishing with open access gear is prohibited within the Point Delgada (North) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Point Delgada (North) YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Point Delgada (North) YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the Point Delgada (North) YRCA, at any time, with or without groundfish on board.

(9) *Point Delgada (South) YRCA.* The latitude and longitude coordinates of the Point Delgada (South) YRCA boundaries are specified at § 660.390. Fishing with open access gear is prohibited within the Point Delgada (South) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Point Delgada (South) YRCA, on dates when the closure is in effect. The closure is not in effect at this time, and commercial fishing for groundfish is open within the Point Delgada (South) YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the Point Delgada (South) YRCA, at any time, with or without groundfish on board.

* * * * *

■ 13. In § 660.384,

■ a. Redesignate paragraphs (c)(1)(i)(C) as (c)(1)(i)(D), and (c)(3)(i)(E) as (c)(3)(i)(J);

■ b. Revise newly redesignated paragraphs (c)(I)(i)(D)(*1*) and (*2*);

■ c. Revise paragraphs (c)(1)(iii)(A), (c)(1)(iii)(B), (c)(2)(iii), (c)(3)(i)(A)(*1*) through (*4*), (c)(3)(ii)(A)(*1*) through (*4*), (c)(3)(ii)(B), (c)(3)(iii)(A)(*1*) through (*4*), (c)(3(iv), (c)(3)(v)(A)(*2*) and (c)(3)(v)(A)(*3*);

■ d. Add paragraphs (c)(1)(i)(C), (c)(3)(i)(A)(*5*), (c)(3)(i)(A)(*6*), (c)(3)(i)(E) through (I), (c)(3)(ii)(A)(*5*), (c)(3)(ii)(A)(*6*), (c)(3)(iii)(A)(*5*), (c)(3)(iii)(A)(*6*) and (c)(3)(v)(A)(*4*); to read as follows:

§ 660.384 Recreational fishery management measures.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(C) *Westport Offshore Recreational Yelloweye Rockfish Conservation Area.* Recreational fishing for groundfish and halibut is prohibited within the Westport Offshore Recreational YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the Westport Offshore Recreational YRCA. A vessel fishing in the Westport Offshore Recreational YRCA may not be in possession of any groundfish. Recreational vessels may transit through the Westport Offshore Recreational YRCA with or without groundfish on board. The Westport Offshore Recreational YRCA is defined by latitude and longitude coordinates specified at § 660.390.

(D) * * *

(*1*) Between the U.S. border with Canada and the Queets River, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 20-fm (37-m) depth contour from May 21 through September 30, except on days when the Pacific halibut fishery is open in this area. Days open to Pacific halibut recreational fishing off Washington are announced on the NMFS hotline at (206) 526–6667 or (800) 662–9825. Coordinates for the boundary line approximating the 20-fm (37-m) depth contour are listed in § 660.391.

(*2*) Between the Queets River and Leadbetter Point, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 30-fm (55-m) depth contour from March 15 through June 15, except that recreational fishing for sablefish and Pacific cod is permitted within the recreational RCA from May 1 through June 15. Retention of lingcod seaward of the boundary line approximating the 30-fm (55-m) depth contour south of 46°58′ N. lat. is prohibited on Fridays and Saturdays from July 1 through August 31. For additional regulations regarding the Washington recreational lingcod fishery, see paragraph (c)(1)(iii) of this section. Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in § 660.391.

(iii) * * *

(A) Between the U.S./Canada border to 48°10′ N. lat. (Cape Alava) (Washington Marine Area 4), recreational fishing for lingcod is open, for 2009, from April 16 through October 15, and for 2010, from April 16 through October 15.

(B) Between 48°10′ N. lat. (Cape Alava) and 46°16′ N. lat. (Washington/Oregon border) (Washington Marine Areas 1–3), recreational fishing for lingcod is open for 2009, from March 14 through October 17, and for 2010, from March 13 through October 16.

(2) * * *

(iii) *Bag limits, size limits.* The bag limits for each person engaged in recreational fishing in the EEZ seaward of Oregon are three lingcod per day, which may be no smaller than 22 in (56 cm) total length; and 10 marine fish per day, which excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species and baitfish (herring, smelt, anchovies and sardines), but which includes rockfish, greenling, cabezon and other groundfish species. The bag limit for all flatfish is 25 fish per day, which excludes Pacific halibut, but which includes all soles, flounders and Pacific sanddabs. In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the **Federal Register**. Between the Oregon border with Washington and Cape Falcon, when Pacific halibut are onboard the vessel, groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod. Between Cape Falcon and Humbug Mountain, during days open to the Oregon Central Coast ''all-depth'' sport halibut fishery, when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod. ''All-depth'' season days are established in the annual management measures for Pacific halibut fisheries, which are published in the **Federal Register** and are announced on the NMFS halibut hotline, 1–800–662–9825. The minimum size limit for cabezon retained in the recreational fishery is 16-in (41-cm), and for greenling is 10-in (26-cm). Taking and retaining canary rockfish and yelloweye rockfish is prohibited at all times and in all areas.

(3) * * *

(i) * * *

(A) * * *

(*1*) Between 42° N. lat. (California/Oregon border) and 40°10.00′ N. lat. (North Region), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 20-fm (37-m) depth contour along the mainland coast and along islands and offshore seamounts from May 15 through September 15; and is closed entirely from January 1 through May 14 and from September 16 through December 31 (i.e., prohibited seaward of the shoreline).

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (North-Central North of Point Arena Region), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 20-fm (37-m) depth contour along the mainland coast and along islands and offshore seamounts from May 15 through August 15; and is closed entirely from January 1 through May 14 and from August 16 through December 31 (*i.e.* , prohibited seaward of the shoreline).

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (North-Central South of Point Arena Region), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the boundary line approximating the 30-fm (55-m) depth contour along the mainland coast and along islands and offshore seamounts from June 13 through October 31; and is closed entirely from January 1 through June 12 and from November 1 through December 31 (*i.e.*, prohibited seaward of the shoreline). Closures around the Farallon Islands (see paragraph (c)(3)(i)(C) of this section) and Cordell Banks (see paragraph (c)(3)(i)(D) of this section) also apply in this area. Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in § 660.391.

(*4*) Between 37°11′ N. lat. and 36° N. lat. (Monterey South-Central Region), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 40-fm (73-m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through November 15; and is closed entirely from January 1 through April 30 and from November 16 through December 31 (*i.e.*, prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40-fm (73-m) depth contour are specified in § 660.391.

(*5*) Between 36° N. lat. and 34°27′ N. lat. (Morro Bay South-Central Region), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 40-fm (73-m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through November 15; and is closed entirely from January 1 through April 30 and from November 16 through December 31 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40-fm (73-m) depth contour are specified in § 660.391.

(*6*) South of 34°27′ N. latitude (South Region), recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (v) of this section and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 60-fm (110-m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 20-fm (37-m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except California scorpionfish and ''other flatfish'') is closed entirely from January 1 through February 28 (i.e., prohibited

seaward of the shoreline). Recreational fishing for California scorpionfish south of 34°27′ N. lat. is prohibited seaward of a boundary line approximating the 40-fm (73-m) depth contour from January 1 through February 28, and seaward of the 60-fm (110-m) depth contour from March 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20-fm (37-m) depth contour when the fishing season is open. Coordinates for the boundary line approximating the 40-fm (73-m) and 60-fm (110-m) depth contours are specified in §§ 660.391 and 660.392.

* * * * *

(E) *Point St. George Yelloweye Rockfish Conservation Area (YRCA).* Recreational fishing for groundfish is prohibited within the Point St. George YRCA, as defined by latitude and longitude coordinates at § 660.390, on dates when the closure is in effect. The closure is not in effect at this time, and recreational fishing for groundfish is open within the Point St. George YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment.

(F) *South Reef YRCA.* Recreational fishing for groundfish is prohibited within the South Reef YRCA, as defined by latitude and longitude coordinates at § 660.390, on dates when the closure is in effect. The closure is not in effect at this time, and recreational fishing for groundfish is open within the South Reef YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment.

(G) *Reading Rock YRCA.* Recreational fishing for groundfish is prohibited within the Reading Rock YRCA, as defined by latitude and longitude coordinates at § 660.390, on dates when the closure is in effect. The closure is not in effect at this time, and recreational fishing for groundfish is open within the Reading Rock YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment.

(H) *Point Delgada (North) YRCA.* Recreational fishing for groundfish is prohibited within the Point Delgada (North) YRCA, as defined by latitude and longitude coordinates at § 660.390, on dates when the closure is in effect. The closure is not in effect at this time, and recreational fishing for groundfish is open within the Point Delgada (North) YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment.

(I) *Point Delgada (South) YRCA.* Recreational fishing for groundfish is prohibited within the Point Delgada (South) YRCA, as defined by latitude and longitude coordinates at § 660.390, on dates when the closure is in effect. The closure is not in effect at this time, and recreational fishing for groundfish is open within the Point Delgada (South) YRCA from January 1 through December 31. This closure may be imposed through inseason adjustment.

* * * * *

(ii) * * *

(A) * * *

(*1*) Between 42° N. lat. (California/Oregon border) and 40°10′ N. lat. (North Region), recreational fishing for the RCG complex is open from May 15 through September 15 (i.e. it's closed from January 1 through May 14 and from September 16 through December 31).

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (North Central North of Point Arena Region), recreational fishing for the RCG Complex is open from May 15 through August 15 (i.e. it's closed from January 1 through May 14 and May 16 through December 31).

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (North Central South of Point Arena Region), recreational fishing for the RCG Complex is open from June 13 through October 31 (i.e. it's closed from January 1 through June 12 and November 1 through December 31.

(*4*) Between 37°11′ N. lat. and 36° N. lat. (Monterey South-Central Region), recreational fishing for the RCG Complex is open from May 1 through November 15 (i.e. it's closed from January 1 through April 30 and from November 16 through December 31).

(*5*) Between 36′ N. lat. and 34°27′ N. lat. (Morro Bay South-Central Region), recreational fishing for the RCG Complex is open from May 1 through November 15 (i.e. it's closed from January 1 through April 30 and from November 16 through December 31).

(*6*) South of 34°27′ N. latitude (South Region), recreational fishing for the RCG Complex is open from March 1 through December 31 (i.e. it's closed from January 1 through February 28.

(B) *Bag limits, hook limits.* In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for rockfish. The bag limit is 10 RCG Complex fish per day coastwide. Retention of canary rockfish, yelloweye rockfish, bronzespotted and cowcod is prohibited. Within the 10 RCG Complex fish per day limit, no more than 2 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 2 may be cabezon. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

* * * * *

(iii) * * *

(A) * * *

(*1*) Between 42° N. lat. (California/Oregon border) and 40°10.00′ N. lat. (North Region), recreational fishing for lingcod is open from May 15 through September 15 (i.e. it's closed from January 1 through May 14 and from September 16 through December 31).

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (North Central North of Point Arena Region), recreational fishing for lingcod is open from May 15 through August 15 (i.e. it's closed from January 1 through May 14 and May 16 through December 31).

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (North Central South of Point Arena Region), recreational fishing for lingcod is open from June 13 through October 31 (i.e. it's closed from January 1 through June 12 and November 1 through December 31.

(*4*) Between 37°11′ N. lat. and 36° N. lat. (Monterey South-Central Region), recreational fishing for lingcod is open from May 1 through November 15 (i.e. it's closed from January 1 through April 30 and from November 16 through December 31).

(*5*) Between 36′ N. lat. and 34°27′ N. lat. (Morro Bay South-Central Region), recreational fishing for lingcod is open from May 1 through November 15 (i.e. it's closed from January 1 through April 30 and from November 16 through December 31).

(*6*) South of 34°27′ N. latitude (South Region), recreational fishing for lingcod is open from April 1 through November 30 (i.e. it's closed from January 1 through March 31 and from December 1 through 31).

* * * * *

(iv) *''Other flatfish''.* Coastwide off California, recreational fishing for ''other flatfish'' is permitted both shoreward of and within the closed areas described in paragraph (c)(3)(i) of this section. ''Other flatfish'' are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole. Recreational fishing for ''other flatfish'' is permitted within the closed areas. ''Other flatfish,'' except Pacific sanddab, are subject to the overall 20-fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species. There is no season restriction or size limit for ''other flatfish;'' however, it is prohibited to filet ''other flatfish'' at sea.

(v) * * *

(A) * * *

(*2*) Between 37°11′ N. lat. and 36° N. lat. (Monterey South Central Region), recreational fishing for California scorpionfish is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1 through December 31).

(*3*) Between 36° N. lat. and 34°27′ N. lat. (Morro Bay South Central Region), recreational fishing for California scorpionfish is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1 through December 31).

(*4*) South of 34°27′ N. lat. (South Region), recreational fishing for California scorpionfish is open from January 1 through December 31.

* * * * *

■ 14. In § 660.385, paragraphs (a), (b)(1), (b)(2)(i)(A)(*1*), (b)(2)(i)(B)(*2*), (b)(2)(i)(B)(*3*), and (e) are revised to read as follows:

§ 660.385 Washington coastal tribal fisheries management measures.

* * * * *

(a) *Sablefish.* The tribal allocation is 694 mt per year. This allocation is, for each year, 10 percent of the Monterey through Vancouver area (North of 36° N. lat.) OY, less 1.6 percent estimated discard mortality.

(b) * * *

(1) *Black Rockfish.* For the commercial harvest of black rockfish off Washington State, a harvest guideline of: 20,000 lb (9,072 kg) north of Cape Alava, WA (48°10′ N. lat.) and 10,000 lb (4,536 kg) between Destruction Island, WA (47°40′ N. lat.) and Leadbetter Point, WA (46°38.17′ N. lat.). There are no tribal harvest restrictions for black rockfish in the area between Cape Alava and Destruction Island.

(2) * * *

(i) * * *

(A) * * *

(*1*) Small and large footrope trawl gear-17,000 lb (7,711-kg) per 2 months.

* * * * *

(B) * * *

(*2*) Selective flatfish trawl gear-5,000-lb (2,268-kg) per 2 months.

(*3*) Multiple bottom trawl gear-5,000-lb (2,268-kg) per 2 months.

* * * * *

(e) Pacific whiting. The tribal set-aside for 2009 is 50,000 mt, with 42,000 to be managed by the Makah Tribe and 8,000 mt to be managed by the Quileute Tribe.

* * * * *

■ 15. In § 660.390, paragraphs (f) through (j) are redesignated as paragraphs (l) through (p), paragraph (e) is redesignated as paragraph (f), and new paragraphs (e), and (g) through (k) are added to read as follows:

§ 660.390 Groundfish conservation areas.

* * * * *

(e) *Westport Offshore Recreational YRCA.* The Westport Offshore Recreational YRCA is an area off the southern Washington coast intended to protect yelloweye rockfish. The Westport Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°54.30′ N. lat., 124°53.40′ W. long.;

(2) 46°54.30′ N. lat., 124°51.00′ W. long.;

(3) 46°53.30′ N. lat., 124°51.00′ W. long.;

(4) 46°53.30′ N. lat., 124°53.40′ W. long.; and connecting back to 46°54.30′ N. lat., 124°53.40′ W. long.

* * * * *

(g) *Point St. George YRCA.* The Point St. George YRCA is an area off the northern California coast, northwest of Point St. George, intended to protect yelloweye rockfish. The Point St. George YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 41°51.00′ N. lat., 124°23.75′ W. long.;

(2) 41°51.00′ N. lat., 124°20.75′ W. long.;

(3) 41°48.00′ N. lat., 124°20.75′ W. long.;

(4) 41°48.00′ N. lat., 124°23.75′ W. long.; and connecting back to 41°51.00′ N. lat., 124°23.75′ W. long.

(h) *South Reef YRCA.* The South Reef YRCA is an area off the northern California coast, southwest of Crescent City, intended to protect yelloweye rockfish. The South Reef YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 41°42.20′ N. lat., 124°16.00′ W. long.;

(2) 41°42.20′ N. lat., 124°13.80′ W. long.;

(3) 41°40.50′ N. lat., 124°13.80′ W. long.;

(4) 41°40.50′ N. lat., 124°16.00′ W. long.; and connecting back to 41°42.20′ N. lat., 124°16.00′ W. long.

(i) *Reading Rock YRCA.* The Reading Rock YRCA is an area off the northern California coast, between Crescent City and Eureka, intended to protect yelloweye rockfish. The Reading Rock YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 41°21.50′ N. lat., 124°12.00′ W. long.;

(2) 41°21.50′ N. lat., 124°10.00′ W. long.;

(3) 41°20.00′ N. lat., 124°10.00′ W. long.;

(4) 41°20.00′ N. lat., 124°12.00′ W. long.; and connecting back to 41°21.50′ N. lat., 124°12.00′ W. long.

(j) *Point Delgada YRCAs.* The Point Delgada YRCAs are two areas off the northern California coast, south of Point Delgada and Shelter Cove, intended to protect yelloweye rockfish. The Northern Point Delgada YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 39°59.00′ N. lat., 124°05.00′ W. long.;

(2) 39°59.00′ N. lat., 124°03.00′ W. long.;

(3) 39°57.00′ N. lat., 124°03.00′ W. long.;

(4) 39°57.00′ N. lat., 124°05.00′ W. long.; and connecting back to 39°59.00′ N. lat., 124°05.00′ W. long.

(k) *Southern Point Delgada YRCA.* The Southern Point Delgada YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 39°57.00′ N. lat., 124°05.00′ W. long.;

(2) 39°57.00′ N. lat., 124°02.00′ W. long.;

(3) 39°54.00′ N. lat., 124°02.00′ W. long.;

(4) 39°54.00′ N. lat., 124°05.00′ W. long.; and connecting back to 39°57.00′ N. lat., 124°05.00′ W. long.

* * * * *

16. In § 660.391:

(a) Paragraphs (b)(25) through (b)(107) and (c)(15) through (c)(74) are revised.

(b) Paragraphs (d) through (m) are redesignated as paragraphs (e) through (n).

(c) New paragraphs (b)(108) through (b)(112), (c)(75) through (c)(79), and (d) are added.

(d) Revise newly redesignated paragraphs (e)(43) through (e)(331).

(e) Paragraphs (e)(332) through (e)(333) are added.

The additions and revisions read as follows:

§ 660.391 Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m) depth contours.

* * * * *

(b) * * *

(25) 45°45.00′ N. lat., 124°00.54′ W. long.;

(26) 45°46.00′ N. lat., 124°00.53′ W. long.;

(27) 45°44.75′ N. lat., 123°59.92′ W. long.;

(28) 45°44.57′ N. lat., 123°59.64′ W. long.;
(29) 45°41.86′ N. lat., 123°58.82′ W. long.;
(30) 45°36.40′ N. lat., 123°59.42′ W. long.;
(31) 45°34.10′ N. lat., 123°59.90′ W. long.;
(32) 45°32.81′ N. lat., 124°00.35′ W. long.;
(33) 45°29.87′ N. lat., 124°00.98′ W. long.;
(34) 45°27.49′ N. lat., 124°00.79′ W. long.;
(35) 45°25.37′ N. lat., 124°00.73′ W. long.;
(36) 45°22.06′ N. lat., 124°01.66′ W. long.;
(37) 45°17.27′ N. lat., 124°00.76′ W. long.;
(38) 45°14.09′ N. lat., 124°00.75′ W. long.;
(39) 45°12.50′ N. lat., 124°00.53′ W. long.;
(40) 45°11.92′ N. lat., 124°01.62′ W. long.;
(41) 45°11.02′ N. lat., 124°00.60′ W. long.;
(42) 45°10.08′ N. lat., 124°00.58′ W. long.;
(43) 45°05.51′ N. lat., 124°02.15′ W. long.;
(44) 45°03.83′ N. lat., 124°02.55′ W. long.;
(45) 45°01.03′ N. lat., 124°03.22′ W. long.;
(46) 44°57.98′ N. lat., 124°04.29′ W. long.;
(47) 44°55.37′ N. lat., 124°04.39′ W. long.;
(48) 44°51.56′ N. lat., 124°05.54′ W. long.;
(49) 44°45.24′ N. lat., 124°06.47′ W. long.;
(50) 44°42.69′ N. lat., 124°06.73′ W. long.;
(51) 44°33.86′ N. lat., 124°07.43′ W. long.;
(52) 44°29.78′ N. lat., 124°07.62′ W. long.;
(53) 44°28.53′ N. lat., 124°07.93′ W. long.;
(54) 44°23.71′ N. lat., 124°08.30′ W. long.;
(55) 44°21.75′ N. lat., 124°08.79′ W. long.;
(56) 44°20.99′ N. lat., 124°08.48′ W. long.;
(57) 44°17.29′ N. lat., 124°08.82′ W. long.;
(58) 44°11.90′ N. lat., 124°09.44′ W. long.;
(59) 44°03.25′ N. lat., 124°10.33′ W. long.;
(60) 43°52.69′ N. lat., 124°12.01′ W. long.;
(61) 43°42.94′ N. lat., 124°13.88′ W. long.;
(62) 43°41.44′ N. lat., 124°14.47′ W. long.;
(63) 43°36.60′ N. lat., 124°14.92′ W. long.;
(64) 43°29.85′ N. lat., 124°17.35′ W. long.;
(65) 43°25.00′ N. lat., 124°20.84′ W. long.;
(66) 43°21.61′ N. lat., 124°24.09′ W. long.;
(67) 43°20.83′ N. lat., 124°24.74′ W. long.;
(68) 43°20.51′ N. lat., 124°25.01′ W. long.;
(69) 43°19.33′ N. lat., 124°25.43′ W. long.;
(70) 43°16.18′ N. lat., 124°26.02′ W. long.;
(71) 43°14.39′ N. lat., 124°26.17′ W. long.;
(72) 43°13.94′ N. lat., 124°26.72′ W. long.;
(73) 43°13.39′ N. lat., 124°26.41′ W. long.;
(74) 43°11.39′ N. lat., 124°26.90′ W. long.;
(75) 43°10.06′ N. lat., 124°28.24′ W. long.;
(76) 43°07.48′ N. lat., 124°28.65′ W. long.;
(77) 43°06.67′ N. lat., 124°28.63′ W. long.;
(78) 43°06.43′ N. lat., 124°28.22′ W. long.;
(79) 43°03.09′ N. lat., 124°28.52′ W. long.;
(80) 42°57.55′ N. lat., 124°30.74′ W. long.;
(81) 42°52.91′ N. lat., 124°35.03′ W. long.;
(82) 42°51.58′ N. lat., 124°36.43′ W. long.;
(83) 42°50.00′ N. lat., 124°37.13′ W. long.;
(84) 42°49.85′ N. lat., 124°37.20′ W. long.;
(85) 42°46.07′ N. lat., 124°36.98′ W. long.;
(86) 42°46.03′ N. lat., 124°34.76′ W. long.;
(87) 42°45.37′ N. lat., 124°33.59′ W. long.;
(88) 42°43.91′ N. lat., 124°32.14′ W. long.;
(89) 42°41.73′ N. lat., 124°29.20′ W. long.;
(90) 42°40.50′ N. lat., 124°28.95′ W. long.;
(91) 42°40.49′ N. lat., 124°28.95′ W. long.;
(92) 42°40.06′ N. lat., 124°28.94′ W. long.;
(93) 42°39.74′ N. lat., 124°27.80′ W. long.;
(94) 42°37.53′ N. lat., 124°26.39′ W. long.;
(95) 42°34.33′ N. lat., 124°26.56′ W. long.;
(96) 42°32.81′ N. lat., 124°27.55′ W. long.;
(97) 42°31.66′ N. lat., 124°29.58′ W. long.;
(98) 42°30.70′ N. lat., 124°30.91′ W. long.;
(99) 42°29.20′ N. lat., 124°31.27′ W. long.;
(100) 42°27.52′ N. lat., 124°30.79′ W. long.;
(101) 42°24.70′ N. lat., 124°29.65′ W. long.;
(102) 42°23.93′ N. lat., 124°28.60′ W. long.;
(103) 42°19.35′ N. lat., 124°27.23′ W. long.;
(104) 42°14.87′ N. lat., 124°26.14′ W. long.;
(105) 42°11.85′ N. lat., 124°23.78′ W. long.;
(106) 42°08.08′ N. lat., 124°22.91′ W. long.;
(107) 42°07.04′ N. lat., 124°22.66′ W. long.;
(108) 42°05.17′ N. lat., 124°21.41′ W. long.;
(109) 42°04.16′ N. lat., 124°20.55′ W. long.;
(110) 42°02.12′ N. lat., 124°20.51′ W. long.;
(111) 42°01.42′ N. lat., 124°20.29′ W. long.; and
(112) 42°00.00′ N. lat., 124°19.61′ W. long.

(c) * * *

(15) 45°46.00′ N. lat., 124°00.94′ W. long.;
(16) 45°43.19′ N. lat., 124°00.32′ W. long.;
(17) 45°36.11′ N. lat., 124°00.38′ W. long.;
(18) 45°32.95′ N. lat., 124°01.38′ W. long.;
(19) 45°27.47′ N. lat., 124°01.46′ W. long.;
(20) 45°23.18′ N. lat., 124°01.94′ W. long.;
(21) 45°19.04′ N. lat., 124°01.29′ W. long.;
(22) 45°16.79′ N. lat., 124°01.90′ W. long.;
(23) 45°13.54′ N. lat., 124°01.64′ W. long.;
(24) 45°09.56′ N. lat., 124°01.94′ W. long.;
(25) 45°06.15′ N. lat., 124°02.38′ W. long.;
(26) 45°03.83′ N. lat., 124°02.96′ W. long.;
(27) 45°00.77′ N. lat., 124°03.72′ W. long.;
(28) 44°49.08′ N. lat., 124°06.49′ W. long.;
(29) 44°40.06′ N. lat., 124°08.14′ W. long.;
(30) 44°36.64′ N. lat., 124°08.51′ W. long.;
(31) 44°29.41′ N. lat., 124°09.24′ W. long.;
(32) 44°25.18′ N. lat., 124°09.37′ W. long.;
(33) 44°16.34′ N. lat., 124°10.30′ W. long.;

(34) 44°12.16′ N. lat., 124°10.82′ W. long.;
(35) 44°06.59′ N. lat., 124°11.00′ W. long.;
(36) 44°02.09′ N. lat., 124°11.24′ W. long.;
(37) 43°57.82′ N. lat., 124°11.60′ W. long.;
(38) 43°53.44′ N. lat., 124°12.34′ W. long.;
(39) 43°49.19′ N. lat., 124°13.08′ W. long.;
(40) 43°45.19′ N. lat., 124°13.73′ W. long.;
(41) 43°41.22′ N. lat., 124°14.59′ W. long.;
(42) 43°37.52′ N. lat., 124°15.05′ W. long.;
(43) 43°33.97′ N. lat., 124°16.00′ W. long.;
(44) 43°29.72′ N. lat., 124°17.78′ W. long.;
(45) 43°27.63′ N. lat., 124°19.11′ W. long.;
(46) 43°20.83′ N. lat., 124°25.24′ W. long.;
(47) 43°20.66′ N. lat., 124°25.39′ W. long.;
(48) 43°15.57′ N. lat., 124°26.86′ W. long.;
(49) 43°06.88′ N. lat., 124°29.30′ W. long.;
(50) 43°03.37′ N. lat., 124°29.06′ W. long.;
(51) 43°01.03′ N. lat., 124°29.41′ W. long.;
(52) 42°56.59′ N. lat., 124°31.93′ W. long.;
(53) 42°54.08′ N. lat., 124°34.55′ W. long.;
(54) 42°51.16′ N. lat., 124°37.02′ W. long.;
(55) 42°50.00′ N. lat., 124°36.41′ W. long.;
(56) 42°49.27′ N. lat., 124°37.73′ W. long.;
(57) 42°46.02′ N. lat., 124°37.54′ W. long.;
(58) 42°45.76′ N. lat., 124°35.68′ W. long.;
(59) 42°42.25′ N. lat., 124°30.47′ W. long.;
(60) 42°40.51′ N. lat., 124°29.00′ W. long.;
(61) 42°40.00′ N. lat., 124°29.01′ W. long.;
(62) 42°39.64′ N. lat., 124°28.28′ W. long.;
(63) 42°38.80′ N. lat., 124°27.57′ W. long.;
(64) 42°35.42′ N. lat., 124°26.77′ W. long.;
(65) 42°33.13′ N. lat., 124°29.06′ W. long.;
(66) 42°31.44′ N. lat., 124°30.71′ W. long.;
(67) 42°29.03′ N. lat., 124°31.71′ W. long.;
(68) 42°24.98′ N. lat., 124°29.95′ W. long.;
(69) 42°20.05′ N. lat., 124°28.16′ W. long.;
(70) 42°14.24′ N. lat., 124°26.03′ W. long.;
(71) 42°10.23′ N. lat., 124°23.93′ W. long.;
(72) 42°06.20′ N. lat., 124°22.70′ W. long.;
(73) 42°04.66′ N. lat., 124°21.49′ W. long.;
(74) 42°00.00′ N. lat., 124°20.80′ W. long.;

(d) The 25-fm (46-m) depth contour between the Queets River, WA, and 42° N. lat., modified to reduce impacts on canary and yelloweye rockfish by shifting the line shoreward in the area between 47°31.70′ N. lat. and 46°44.18′ N. lat., is defined by straight lines connecting all of the following points in the order stated:
(1) 47°31.70′ N. lat., 124°34.66′ W. long.;
(2) 47°25.67′ N. lat., 124°32.78′ W. long.;
(3) 47°12.82′ N. lat., 124°26.00′ W. long.;
(4) 46°52.94′ N. lat., 124°18.94′ W. long.;
(5) 46°44.18′ N. lat., 124°14.89′ W. long.;
(6) 46°38.17′ N. lat., 124°13.70′ W. long.;
(7) 46°16.00′ N. lat., 124°12.50′ W. long.;
(8) 46°15.99′ N. lat., 124°12.04′ W. long.;
(9) 46°13.72′ N. lat., 124°11.04′ W. long.;
(10) 46°09.50′ N. lat., 124°07.62′ W. long.;
(11) 46°04.00′ N. lat., 124°03.20′ W. long.;
(12) 45°57.61′ N. lat., 124°01.85′ W. long.;
(13) 45°51.73′ N. lat., 124°01.06′ W. long.;
(14) 45°47.27′ N. lat., 124°01.22′ W. long.;
(15) 45°46.00′ N. lat., 124°00.94′ W. long.;
(16) 45°43.19′ N. lat., 124°00.32′ W. long.;
(17) 45°36.11′ N. lat., 124°00.38′ W. long.;
(18) 45°32.95′ N. lat., 124°01.38′ W. long.;
(19) 45°27.47′ N. lat., 124°01.46′ W. long.;
(20) 45°23.18′ N. lat., 124°01.94′ W. long.;
(21) 45°19.04′ N. lat., 124°01.29′ W. long.;
(22) 45°16.79′ N. lat., 124°01.90′ W. long.;
(23) 45°13.54′ N. lat., 124°01.64′ W. long.;
(24) 45°09.56′ N. lat., 124°01.94′ W. long.;
(25) 45°06.15′ N. lat., 124°02.38′ W. long.;
(26) 45°03.83′ N. lat., 124°02.96′ W. long.;
(27) 45°00.77′ N. lat., 124°03.72′ W. long.;
(28) 44°49.08′ N. lat., 124°06.49′ W. long.;
(29) 44°40.06′ N. lat., 124°08.14′ W. long.;
(30) 44°36.64′ N. lat., 124°08.51′ W. long.;
(31) 44°29.41′ N. lat., 124°09.24′ W. long.;
(32) 44°25.18′ N. lat., 124°09.37′ W. long.;
(33) 44°16.34′ N. lat., 124°10.30′ W. long.;
(34) 44°12.16′ N. lat., 124°10.82′ W. long.;
(35) 44°06.59′ N. lat., 124°11.00′ W. long.;
(36) 44°02.09′ N. lat., 124°11.24′ W. long.;
(37) 43°57.82′ N. lat., 124°11.60′ W. long.;
(38) 43°53.44′ N. lat., 124°12.34′ W. long.;
(39) 43°49.19′ N. lat., 124°13.08′ W. long.;
(40) 43°45.19′ N. lat., 124°13.73′ W. long.;
(41) 43°41.22′ N. lat., 124°14.59′ W. long.;
(42) 43°37.52′ N. lat., 124°15.05′ W. long.;
(43) 43°33.97′ N. lat., 124°16.00′ W. long.;
(44) 43°29.72′ N. lat., 124°17.78′ W. long.;
(45) 43°27.63′ N. lat., 124°19.11′ W. long.;
(46) 43°20.83′ N. lat., 124°25.24′ W. long.;
(47) 43°20.66′ N. lat., 124°25.39′ W. long.;
(48) 43°15.57′ N. lat., 124°26.86′ W. long.;
(49) 43°06.88′ N. lat., 124°29.30′ W. long.;
(50) 43°03.37′ N. lat., 124°29.06′ W. long.;
(51) 43°01.03′ N. lat., 124°29.41′ W. long.;
(52) 42°56.59′ N. lat., 124°31.93′ W. long.;
(53) 42°54.08′ N. lat., 124°34.55′ W. long.;
(54) 42°51.16′ N. lat., 124°37.02′ W. long.;
(55) 42°50.00′ N. lat., 124°36.41′ W. long.;
(56) 42°49.27′ N. lat., 124°37.73′ W. long.;
(57) 42°46.02′ N. lat., 124°37.54′ W. long.;
(58) 42°45.76′ N. lat., 124°35.68′ W. long.;
(59) 42°42.25′ N. lat., 124°30.47′ W. long.;

(60) 42°40.51′ N. lat., 124°29.00′ W. long.;
(61) 42°40.00′ N. lat., 124°29.01′ W. long.;
(62) 42°39.64′ N. lat., 124°28.28′ W. long.;
(63) 42°38.80′ N. lat., 124°27.57′ W. long.;
(64) 42°35.42′ N. lat., 124°26.77′ W. long.;
(65) 42°33.13′ N. lat., 124°29.06′ W. long.;
(66) 42°31.44′ N. lat., 124°30.71′ W. long.;
(67) 42°29.03′ N. lat., 124°31.71′ W. long.;
(68) 42°24.98′ N. lat., 124°29.95′ W. long.;
(69) 42°20.05′ N. lat., 124°28.16′ W. long.;
(70) 42°14.24′ N. lat., 124°26.03′ W. long.;
(71) 42°10.23′ N. lat., 124°23.93′ W. long.;
(72) 42°06.20′ N. lat., 124°22.70′ W. long.;
(73) 42°04.66′ N. lat., 124°21.49′ W. long.; and
(74) 42°00.00′ N. lat., 124°20.80′ W. long.

(e) * * *

(43) 45°03.82′ N. lat., 124°04.43′ W. long.;
(44) 45°02.81′ N. lat., 124°04.64′ W. long.;
(45) 44°58.06′ N. lat., 124°05.03′ W. long.;
(46) 44°53.97′ N. lat., 124°06.92′ W. long.;
(47) 44°48.89′ N. lat., 124°07.04′ W. long.;
(48) 44°46.94′ N. lat., 124°08.25′ W. long.;
(49) 44°42.72′ N. lat., 124°08.98′ W. long.;
(50) 44°38.16′ N. lat., 124°11.48′ W. long.;
(51) 44°33.38′ N. lat., 124°11.54′ W. long.;
(52) 44°28.51′ N. lat., 124°12.04′ W. long.;
(53) 44°27.65′ N. lat., 124°12.56′ W. long.;
(54) 44°19.67′ N. lat., 124°12.37′ W. long.;
(55) 44°10.79′ N. lat., 124°12.22′ W. long.;
(56) 44°09.22′ N. lat., 124°12.28′ W. long.;
(57) 44°08.30′ N. lat., 124°12.30′ W. long.;
(58) 44°00.22′ N. lat., 124°12.80′ W. long.;
(59) 43°51.56′ N. lat., 124°13.18′ W. long.;
(60) 43°44.26′ N. lat., 124°14.50′ W. long.;
(61) 43°33.82′ N. lat., 124°16.28′ W. long.;
(62) 43°28.66′ N. lat., 124°18.72′ W. long.;
(63) 43°23.12′ N. lat., 124°24.04′ W. long.;
(64) 43°20.83′ N. lat., 124°25.67′ W. long.;
(65) 43°20.48′ N. lat., 124°25.90′ W. long.;
(66) 43°16.41′ N. lat., 124°27.52′ W. long.;
(67) 43°14.23′ N. lat., 124°29.28′ W. long.;
(68) 43°14.03′ N. lat., 124°28.31′ W. long.;
(69) 43°11.92′ N. lat., 124°28.26′ W. long.;
(70) 43°11.02′ N. lat., 124°29.11′ W. long.;
(71) 43°10.13′ N. lat., 124°29.15′ W. long.;
(72) 43°09.26′ N. lat., 124°31.03′ W. long.;
(73) 43°07.73′ N. lat., 124°30.92′ W. long.;
(74) 43°05.93′ N. lat., 124°29.64′ W. long.;
(75) 43°01.59′ N. lat., 124°30.64′ W. long.;
(76) 42°59.72′ N. lat., 124°31.16′ W. long.;
(77) 42°53.75′ N. lat., 124°36.09′ W. long.;
(78) 42°50.00′ N. lat., 124°36.41′ W. long.;
(79) 42°50.00′ N. lat., 124°38.39′ W. long.;
(80) 42°49.37′ N. lat., 124°38.81′ W. long.;
(81) 42°46.42′ N. lat., 124°37.69′ W. long.;
(82) 42°46.07′ N. lat., 124°38.56′ W. long.;
(83) 42°45.29′ N. lat., 124°37.95′ W. long.;
(84) 42°45.61′ N. lat., 124°36.87′ W. long.;
(85) 42°44.27′ N. lat., 124°33.64′ W. long.;
(86) 42°42.75′ N. lat., 124°31.84′ W. long.;
(87) 42°40.50′ N. lat., 124°29.67′ W. long.;
(88) 42°40.04′ N. lat., 124°29.20′ W. long.;
(89) 42°38.09′ N. lat., 124°28.39′ W. long.;
(90) 42°36.73′ N. lat., 124°27.54′ W. long.;
(91) 42°36.56′ N. lat., 124°28.40′ W. long.;
(92) 42°35.77′ N. lat., 124°28.79′ W. long.;
(93) 42°34.03′ N. lat., 124°29.98′ W. long.;
(94) 42°34.19′ N. lat., 124°30.58′ W. long.;
(95) 42°31.27′ N. lat., 124°32.24′ W. long.;
(96) 42°27.07′ N. lat., 124°32.53′ W. long.;
(97) 42°24.21′ N. lat., 124°31.23′ W. long.;
(98) 42°20.47′ N. lat., 124°28.87′ W. long.;
(99) 42°14.60′ N. lat., 124°26.80′ W. long.;
(100) 42°13.67′ N. lat., 124°26.25′ W. long.;
(101) 42°10.90′ N. lat., 124°24.56′ W. long.;
(102) 42°07.04′ N. lat., 124°23.35′ W. long.;
(103) 42°02.16′ N. lat., 124°22.59′ W. long.;
(104) 42°00.00′ N. lat., 124°21.81′ W. long.;
(105) 41°55.75′ N. lat., 124°20.72′ W. long.;
(106) 41°50.93′ N. lat., 124°23.76′ W. long.;
(107) 41°42.53′ N. lat., 124°16.47′ W. long.;
(108) 41°37.20′ N. lat., 124°17.05′ W. long.;
(109) 41°24.58′ N. lat., 124°10.51′ W. long.;
(110) 41°20.73′ N. lat., 124°11.73′ W. long.;
(111) 41°17.59′ N. lat., 124°10.66′ W. long.;
(112) 41°04.54′ N. lat., 124°14.47′ W. long.;
(113) 40°54.26′ N. lat., 124°13.90′ W. long.;
(114) 40°40.31′ N. lat., 124°26.24′ W. long.;
(115) 40°34.00′ N. lat., 124°27.39′ W. long.;
(116) 40°30.00′ N. lat., 124°31.32′ W. long.;
(117) 40°28.89′ N. lat., 124°32.43′ W. long.;
(118) 40°24.77′ N. lat., 124°29.51′ W. long.;
(119) 40°22.47′ N. lat., 124°24.12′ W. long.;
(120) 40°19.73′ N. lat., 124°23.59′ W. long.;
(121) 40°18.64′ N. lat., 124°21.89′ W. long.;
(122) 40°17.67′ N. lat., 124°23.07′ W. long.;
(123) 40°15.58′ N. lat., 124°23.61′ W. long.;
(124) 40°13.42′ N. lat., 124°22.94′ W. long.;
(125) 40°10.00′ N. lat., 124°16.65′ W. long.;
(126) 40°09.46′ N. lat., 124°15.28′ W. long.;
(127) 40°08.89′ N. lat., 124°15.24′ W. long.;
(128) 40°06.40′ N. lat., 124°10.97′ W. long.;
(129) 40°06.08′ N. lat., 124°09.34′ W. long.;
(130) 40°06.64′ N. lat., 124°08.00′ W. long.;
(131) 40°05.08′ N. lat., 124°07.57′ W. long.;

(132) 40°04.29′ N. lat., 124°08.12′ W. long.;
(133) 40°00.61′ N. lat., 124°07.35′ W. long.;
(134) 39°58.60′ N. lat., 124°05.51′ W. long.;
(135) 39°54.89′ N. lat., 124°04.67′ W. long.;
(136) 39°53.01′ N. lat., 124°02.33′ W. long.;
(137) 39°53.20′ N. lat., 123°58.18′ W. long.;
(138) 39°48.45′ N. lat., 123°53.21′ W. long.;
(139) 39°43.89′ N. lat., 123°51.75′ W. long.;
(140) 39°39.60′ N. lat., 123°49.14′ W. long.;
(141) 39°34.43′ N. lat., 123°48.48′ W. long.;
(142) 39°30.63′ N. lat., 123°49.71′ W. long.;
(143) 39°21.25′ N. lat., 123°50.54′ W. long.;
(144) 39°08.87′ N. lat., 123°46.24′ W. long.;
(145) 39°03.79′ N. lat., 123°43.91′ W. long.;
(146) 38°59.65′ N. lat., 123°45.94′ W. long.;
(147) 38°57.50′ N. lat., 123°46.28′ W. long.;
(148) 38°56.80′ N. lat., 123°46.48′ W. long.;
(149) 38°51.16′ N. lat., 123°41.48′ W. long.;
(150) 38°45.77′ N. lat., 123°35.14′ W. long.;
(151) 38°42.21′ N. lat., 123°28.17′ W. long.;
(152) 38°34.05′ N. lat., 123°20.96′ W. long.;
(153) 38°22.47′ N. lat., 123°07.48′ W. long.;
(154) 38°16.52′ N. lat., 123°05.62′ W. long.;
(155) 38°14.42′ N. lat., 123°01.91′ W. long.;
(156) 38°08.24′ N. lat., 122°59.79′ W. long.;
(157) 38°02.69′ N. lat., 123°01.96′ W. long.;
(158) 38°00.00′ N. lat., 123°04.75′ W. long.;
(159) 37°58.41′ N. lat., 123°02.93′ W. long.;
(160) 37°58.25′ N. lat., 122°56.49′ W. long.;
(161) 37°50.30′ N. lat., 122°52.23′ W. long.;
(162) 37°43.36′ N. lat., 123°04.18′ W. long.;
(163) 37°40.77′ N. lat., 123°01.62′ W. long.;
(164) 37°40.13′ N. lat., 122°57.30′ W. long.;
(165) 37°42.59′ N. lat., 122°53.64′ W. long.;
(166) 37°35.67′ N. lat., 122°44.20′ W. long.;
(167) 37°29.62′ N. lat., 122°36.00′ W. long.;
(168) 37°22.38′ N. lat., 122°31.66′ W. long.;
(169) 37°13.86′ N. lat., 122°28.27′ W. long.;
(170) 37°11.00′ N. lat., 122°26.50′ W. long.;
(171) 37°08.10′ N. lat., 122°24.75′ W. long.;
(172) 37°07.00′ N. lat., 122°23.60′ W. long.;
(173) 37°05.84′ N. lat., 122°22.47′ W. long.;
(174) 36°58.77′ N. lat., 122°13.03′ W. long.;
(175) 36°53.74′ N. lat., 122°03.39′ W. long.;
(176) 36°52.71′ N. lat., 122°00.14′ W. long.;
(177) 36°52.51′ N. lat., 121°56.77′ W. long.;
(178) 36°49.44′ N. lat., 121°49.63′ W. long.;
(179) 36°48.01′ N. lat., 121°49.92′ W. long.;
(180) 36°48.25′ N. lat., 121°47.66′ W. long.;
(181) 36°46.26′ N. lat., 121°51.27′ W. long.;
(182) 36°39.14′ N. lat., 121°52.05′ W. long.;
(183) 36°38.00′ N. lat., 121°53.57′ W. long.;
(184) 36°39.14′ N. lat., 121°55.45′ W. long.;
(185) 36°38.50′ N. lat., 121°57.90′ W. long.;
(186) 36°36.75′ N. lat., 121°59.44′ W. long.;
(187) 36°34.97′ N. lat., 121°59.37′ W. long.;
(188) 36°33.07′ N. lat., 121°58.32′ W. long.;
(189) 36°33.27′ N. lat., 121°57.07′ W. long.;
(190) 36°32.68′ N. lat., 121°57.03′ W. long.;
(191) 36°32.04′ N. lat., 121°55.98′ W. long.;
(192) 36°31.61′ N. lat., 121°55.72′ W. long.;
(193) 36°31.59′ N. lat., 121°57.12′ W. long.;
(194) 36°31.52′ N. lat., 121°57.57′ W. long.;
(195) 36°30.88′ N. lat., 121°57.90′ W. long.;
(196) 36°30.25′ N. lat., 121°57.37′ W. long.;
(197) 36°29.47′ N. lat., 121°57.55′ W. long.;
(198) 36°26.72′ N. lat., 121°56.40′ W. long.;
(199) 36°24.33′ N. lat., 121°56.00′ W. long.;
(200) 36°23.36′ N. lat., 121°55.45′ W. long.;
(201) 36°18.86′ N. lat., 121°56.15′ W. long.;
(202) 36°16.21′ N. lat., 121°54.81′ W. long.;
(203) 36°15.30′ N. lat., 121°53.79′ W. long.;
(204) 36°12.04′ N. lat., 121°45.38′ W. long.;
(205) 36°11.87′ N. lat., 121°44.45′ W. long.;
(206) 36°12.13′ N. lat., 121°44.25′ W. long.;
(207) 36°11.89′ N. lat., 121°43.65′ W. long.;
(208) 36°10.56′ N. lat., 121°42.62′ W. long.;
(209) 36°09.90′ N. lat., 121°41.57′ W. long.;
(210) 36°08.14′ N. lat., 121°40.44′ W. long.;
(211) 36°06.69′ N. lat., 121°38.79′ W. long.;
(212) 36°05.85′ N. lat., 121°38.47′ W. long.;
(213) 36°03.08′ N. lat., 121°36.25′ W. long.;
(214) 36°02.92′ N. lat., 121°35.89′ W. long.;
(215) 36°01.53′ N. lat., 121°36.13′ W. long.;
(216) 36°00.59′ N. lat., 121°35.40′ W. long.;
(217) 36°00.00′ N. lat., 121°34.10′ W. long.;
(218) 35°59.93′ N. lat., 121°33.81′ W. long.;
(219) 35°59.69′ N. lat., 121°31.84′ W. long.;
(220) 35°58.59′ N. lat., 121°30.30′ W. long.;
(221) 35°54.02′ N. lat., 121°29.71′ W. long.;
(222) 35°51.54′ N. lat., 121°27.67′ W. long.;
(223) 35°50.42′ N. lat., 121°25.79′ W. long.;
(224) 35°48.37′ N. lat., 121°24.29′ W. long.;
(225) 35°47.02′ N. lat., 121°22.46′ W. long.;
(226) 35°42.28′ N. lat., 121°21.20′ W. long.;
(227) 35°41.57′ N. lat., 121°21.82′ W. long.;
(228) 35°39.24′ N. lat., 121°18.84′ W. long.;
(229) 35°35.14′ N. lat., 121°10.45′ W. long.;
(230) 35°30.11′ N. lat., 121°05.59′ W. long.;
(231) 35°25.86′ N. lat., 121°00.07′ W. long.;
(232) 35°22.82′ N. lat., 120°54.68′ W. long.;
(233) 35°17.96′ N. lat., 120°55.54′ W. long.;
(234) 35°14.83′ N. lat., 120°55.42′ W. long.;
(235) 35°08.87′ N. lat., 120°50.22′ W. long.;
(236) 35°05.55′ N. lat., 120°44.89′ W. long.;

(237) 35°02.91′ N. lat., 120°43.94′ W. long.;
(238) 34°53.80′ N. lat., 120°43.94′ W. long.;
(239) 34°34.89′ N. lat., 120°41.92′ W. long.;
(240) 34°32.48′ N. lat., 120°40.05′ W. long.;
(241) 34°30.12′ N. lat., 120°32.81′ W. long.;
(242) 34°27.00′ N. lat., 120°30.46′ W. long.;
(243) 34°27.00′ N. lat., 120°30.31′ W. long.;
(244) 34°25.84′ N. lat., 120°27.40′ W. long.;
(245) 34°25.16′ N. lat., 120°20.18′ W. long.;
(246) 34°25.88′ N. lat., 120°18.24′ W. long.;
(247) 34°27.26′ N. lat., 120°12.47′ W. long.;
(248) 34°26.27′ N. lat., 120°02.22′ W. long.;
(249) 34°23.41′ N. lat., 119°53.40′ W. long.;
(250) 34°23.33′ N. lat., 119°48.74′ W. long.;
(251) 34°22.31′ N. lat., 119°41.36′ W. long.;
(252) 34°21.72′ N. lat., 119°40.14′ W. long.;
(253) 34°21.25′ N. lat., 119°41.18′ W. long.;
(254) 34°20.25′ N. lat., 119°39.03′ W. long.;
(255) 34°19.87′ N. lat., 119°33.65′ W. long.;
(256) 34°18.67′ N. lat., 119°30.16′ W. long.;
(257) 34°16.95′ N. lat., 119°27.90′ W. long.;
(258) 34°13.02′ N. lat., 119°26.99′ W. long.;
(259) 34°08.62′ N. lat., 119°20.89′ W. long.;
(260) 34°06.95′ N. lat., 119°17.68′ W. long.;
(261) 34°05.93′ N. lat., 119°15.17′ W. long.;
(262) 34°08.42′ N. lat., 119°13.11′ W. long.;
(263) 34°05.23′ N. lat., 119°13.34′ W. long.;
(264) 34°04.98′ N. lat., 119°11.39′ W. long.;
(265) 34°04.55′ N. lat., 119°11.09′ W. long.;
(266) 34°04.15′ N. lat., 119°09.35′ W. long.;
(267) 34°04.89′ N. lat., 119°07.86′ W. long.;
(268) 34°04.08′ N. lat., 119°07.33′ W. long.;
(269) 34°04.10′ N. lat., 119°06.89′ W. long.;
(270) 34°05.08′ N. lat., 119°07.02′ W. long.;
(271) 34°05.27′ N. lat., 119°04.95′ W. long.;
(272) 34°04.51′ N. lat., 119°04.70′ W. long.;
(273) 34°02.26′ N. lat., 118°59.88′ W. long.;
(274) 34°01.08′ N. lat., 118°59.77′ W. long.;
(275) 34°00.94′ N. lat., 118°51.65′ W. long.;
(276) 33°59.77′ N. lat., 118°49.26′ W. long.;
(277) 34°00.04′ N. lat., 118°48.92′ W. long.;
(278) 33°59.65′ N. lat., 118°48.43′ W. long.;
(279) 33°59.46′ N. lat., 118°47.25′ W. long.;
(280) 33°59.80′ N. lat., 118°45.89′ W. long.;
(281) 34°00.21′ N. lat., 118°37.64′ W. long.;
(282) 33°59.26′ N. lat., 118°34.58′ W. long.;
(283) 33°58.07′ N. lat., 118°33.36′ W. long.;
(284) 33°53.76′ N. lat., 118°30.14′ W. long.;
(285) 33°51.00′ N. lat., 118°25.19′ W. long.;
(286) 33°50.07′ N. lat., 118°24.70′ W. long.;
(287) 33°50.16′ N. lat., 118°23.77′ W. long.;
(288) 33°48.80′ N. lat., 118°25.31′ W. long.;
(289) 33°47.07′ N. lat., 118°27.07′ W. long.;
(290) 33°46.12′ N. lat., 118°26.87′ W. long.;
(291) 33°44.15′ N. lat., 118°25.15′ W. long.;
(292) 33°43.54′ N. lat., 118°23.02′ W. long.;
(293) 33°41.35′ N. lat., 118°18.86′ W. long.;
(294) 33°39.96′ N. lat., 118°17.37′ W. long.;
(295) 33°40.12′ N. lat., 118°16.33′ W. long.;
(296) 33°39.28′ N. lat., 118°16.21′ W. long.;
(297) 33°38.04′ N. lat., 118°14.86′ W. long.;
(298) 33°36.57′ N. lat., 118°14.67′ W. long.;
(299) 33°34.93′ N. lat., 118°10.94′ W. long.;
(300) 33°35.14′ N. lat., 118°08.61′ W. long.;
(301) 33°35.69′ N. lat., 118°07.68′ W. long.;
(302) 33°36.21′ N. lat., 118°07.53′ W. long.;
(303) 33°36.43′ N. lat., 118°06.73′ W. long.;
(304) 33°36.05′ N. lat., 118°06.15′ W. long.;
(305) 33°36.32′ N. lat., 118°03.91′ W. long.;
(306) 33°35.69′ N. lat., 118°03.64′ W. long.;
(307) 33°34.62′ N. lat., 118°00.04′ W. long.;
(308) 33°34.80′ N. lat., 117°57.73′ W. long.;
(309) 33°35.57′ N. lat., 117°56.62′ W. long.;
(310) 33°35.46′ N. lat., 117°55.99′ W. long.;
(311) 33°35.98′ N. lat., 117°55.99′ W. long.;
(312) 33°35.46′ N. lat., 117°55.38′ W. long.;
(313) 33°35.21′ N. lat., 117°53.46′ W. long.;
(314) 33°33.61′ N. lat., 117°50.45′ W. long.;
(315) 33°31.41′ N. lat., 117°47.28′ W. long.;
(316) 33°27.54′ N. lat., 117°44.36′ W. long.;
(317) 33°26.63′ N. lat., 117°43.17′ W. long.;
(318) 33°25.21′ N. lat., 117°40.90′ W. long.;
(319) 33°20.33′ N. lat., 117°35.99′ W. long.;
(320) 33°16.35′ N. lat., 117°31.51′ W. long.;
(321) 33°11.53′ N. lat., 117°26.81′ W. long.;
(322) 33°07.59′ N. lat., 117°21.13′ W. long.;
(323) 33°02.21′ N. lat., 117°19.05′ W. long.;
(324) 32°56.55′ N. lat., 117°17.70′ W. long.;
(325) 32°54.61′ N. lat., 117°16.60′ W. long.;
(326) 32°52.32′ N. lat., 117°15.97′ W. long.;
(327) 32°51.48′ N. lat., 117°16.15′ W. long.;
(328) 32°51.85′ N. lat., 117°17.26′ W. long.;
(329) 32°51.55′ N. lat., 117°19.01′ W. long.;
(330) 32°49.55′ N. lat., 117°19.63′ W. long.;
(331) 32°46.71′ N. lat., 117°18.32′ W. long.;
(332) 32°36.35′ N. lat., 117°15.68′ W. long.; and
(333) 32°32.85′ N. lat., 117°15.44′ W. long.

* * * * *

17. In § 660.392:

(a) Paragraphs (a)(7) through (192) are revised and (a)(193) through (195) are added.

(b) Paragraphs (f)(11) through (194) are revised and (f)(195) through (211) are added.

(c) Paragraphs (g)(1) through (28) are revised and (g)(29) is removed.

(d) Paragraphs (h)(1) through (14) are revised.

(e) Paragraphs (i)(1) through (16) are revised and (i)(17) is added.

(f) Paragraphs (j)(37) through (244) are revised and (j)(245) through (254) are added.

(g) Paragraphs (k)(1) through (31) are revised and (k)(32) through (38) are removed.

(h) Paragraphs (m)(1) through (18) are revised.

The revisions and additions read as follows:

§ 660.392 Latitude/longitude coordinates defining the 50-fm (91-m) through 75-fm (137-m) depth contours.

* * * * *

(a) * * *

(7) 48°10.00′ N. lat., 124°55.68′ W. long.;

(8) 48°03.14′ N. lat., 124°57.02′ W. long.;

(9) 47°56.05′ N. lat., 124°55.60′ W. long.;

(10) 47°52.58′ N. lat., 124°54.00′ W. long.;

(11) 47°50.18′ N. lat., 124°52.36′ W. long.;

(12) 47°45.34′ N. lat., 124°51.07′ W. long.;

(13) 47°40.96′ N. lat., 124°48.84′ W. long.;

(14) 47°34.59′ N. lat., 124°46.24′ W. long.;

(15) 47°27.86′ N. lat., 124°42.12′ W. long.;

(16) 47°22.34′ N. lat., 124°39.43′ W. long.;

(17) 47°17.66′ N. lat., 124°38.75′ W. long.;

(18) 47°06.25′ N. lat., 124°39.74′ W. long.;

(19) 47°00.43′ N. lat., 124°38.01′ W. long.;

(20) 46°52.00′ N. lat., 124°32.44′ W. long.;

(21) 46°38.17′ N. lat., 124°26.66′ W. long.;

(22) 46°35.41′ N. lat., 124°25.51′ W. long.;

(23) 46°25.43′ N. lat., 124°23.46′ W. long.;

(24) 46°16.00′ N. lat., 124°17.32′ W. long.;

(25) 45°50.88′ N. lat., 124°09.68′ W. long.;

(26) 45°46.00′ N. lat., 124°09.39′ W. long.;

(27) 45°20.25′ N. lat., 124°07.34′ W. long.;

(28) 45°12.99′ N. lat., 124°06.71′ W. long.;

(29) 45°03.83′ N. lat., 124°09.17′ W. long.;

(30) 44°52.48′ N. lat., 124°11.22′ W. long.;

(31) 44°42.41′ N. lat., 124°19.70′ W. long.;

(32) 44°38.80′ N. lat., 124°26.58′ W. long.;

(33) 44°23.39′ N. lat., 124°31.70′ W. long.;

(34) 44°20.30′ N. lat., 124°38.72′ W. long.;

(35) 44°13.52′ N. lat., 124°40.45′ W. long.;

(36) 44°18.80′ N. lat., 124°35.48′ W. long.;

(37) 44°19.62′ N. lat., 124°27.18′ W. long.;

(38) 44°08.30′ N. lat., 124°22.17′ W. long.;

(39) 43°56.65′ N. lat., 124°16.86′ W. long.;

(40) 43°34.95′ N. lat., 124°17.47′ W. long.;

(41) 43°20.83′ N. lat., 124°29.11′ W. long.;

(42) 43°12.60′ N. lat., 124°35.80′ W. long.;

(43) 43°08.96′ N. lat., 124°33.77′ W. long.;

(44) 42°59.66′ N. lat., 124°34.79′ W. long.;

(45) 42°54.29′ N. lat., 124°39.46′ W. long.;

(46) 42°50.00′ N. lat., 124°39.84′ W. long.;

(47) 42°46.50′ N. lat., 124°39.99′ W. long.;

(48) 42°41.00′ N. lat., 124°34.92′ W. long.;

(49) 42°40.50′ N. lat., 124°34.98′ W. long.;

(50) 42°36.29′ N. lat., 124°34.70′ W. long.;

(51) 42°28.36′ N. lat., 124°37.90′ W. long.;

(52) 42°25.53′ N. lat., 124°37.68′ W. long.;

(53) 42°18.64′ N. lat., 124°29.47′ W. long.;

(54) 42°13.67′ N. lat., 124°27.67′ W. long.;

(55) 42°03.04′ N. lat., 124°25.81′ W. long.;

(56) 42°00.00′ N. lat., 124°26.21′ W. long.;

(57) 41°57.60′ N. lat., 124°27.35′ W. long.;

(58) 41°52.53′ N. lat., 124°26.51′ W. long.;

(59) 41°50.17′ N. lat., 124°25.63′ W. long.;

(60) 41°46.01′ N. lat., 124°22.16′ W. long.;

(61) 41°26.50′ N. lat., 124°21.78′ W. long.;

(62) 41°15.66′ N. lat., 124°16.42′ W. long.;

(63) 41°05.45′ N. lat., 124°16.89′ W. long.;

(64) 40°54.55′ N. lat., 124°19.53′ W. long.;

(65) 40°42.22′ N. lat., 124°28.29′ W. long.;

(66) 40°39.68′ N. lat., 124°28.37′ W. long.;

(67) 40°36.76′ N. lat., 124°27.39′ W. long.;

(68) 40°34.44′ N. lat., 124°28.89′ W. long.;

(69) 40°32.57′ N. lat., 124°32.43′ W. long.;

(70) 40°30.95′ N. lat., 124°33.87′ W. long.;

(71) 40°30.00′ N. lat., 124°34.18′ W. long.;

(72) 40°28.90′ N. lat., 124°34.59′ W. long.;

(73) 40°24.36′ N. lat., 124°31.42′ W. long.;

(74) 40°23.66′ N. lat., 124°28.35′ W. long.;

(75) 40°22.54′ N. lat., 124°24.71′ W. long.;

(76) 40°21.52′ N. lat., 124°24.86′ W. long.;

(77) 40°21.25′ N. lat., 124°25.59′ W. long.;

(78) 40°20.63′ N. lat., 124°26.47′ W. long.;

(79) 40°19.18′ N. lat., 124°25.98′ W. long.;

(80) 40°18.42′ N. lat., 124°24.77′ W. long.;

(81) 40°18.64′ N. lat., 124°22.81′ W. long.;

(82) 40°15.31′ N. lat., 124°25.28′ W. long.;

(83) 40°15.37′ N. lat., 124°26.82′ W. long.;

(84) 40°11.91′ N. lat., 124°22.68′ W. long.;

(85) 40°10.00′ N. lat., 124°19.97′ W. long.;

(86) 40°09.20′ N. lat., 124°15.81′ W. long.;

(87) 40°07.51′ N. lat., 124°15.29′ W. long.;

(88) 40°05.22′ N. lat., 124°10.06′ W. long.;

(89) 40°06.51′ N. lat., 124°08.01′ W. long.;

(90) 40°00.72′ N. lat., 124°08.45′ W. long.;

(91) 39°56.60′ N. lat., 124°07.12′ W. long.;

(92) 39°52.58′ N. lat., 124°03.57′ W. long.;

(93) 39°50.65′ N. lat., 123°57.98′ W. long.;

(94) 39°40.16′ N. lat., 123°52.41′ W. long.;

(95) 39°30.12′ N. lat., 123°52.92′ W. long.;

(96) 39°24.53′ N. lat., 123°55.16′ W. long.;

(97) 39°11.58′ N. lat., 123°50.93′ W. long.;

(98) 38°57.50′ N. lat., 123°51.10′ W. long.;

(99) 38°55.13′ N. lat., 123°51.14′ W. long.;

(100) 38°28.58′ N. lat., 123°22.84′ W. long.;

(101) 38°14.60′ N. lat., 123°09.92′ W. long.;

(102) 38°01.84′ N. lat., 123°09.75′ W. long.;

(103) 38°00.00′ N. lat., 123°09.25′ W. long.;

(104) 37°55.24′ N. lat., 123°08.30′ W. long.;
(105) 37°52.06′ N. lat., 123°09.19′ W. long.;
(106) 37°50.21′ N. lat., 123°14.90′ W. long.;
(107) 37°35.67′ N. lat., 122°55.43′ W. long.;
(108) 37°11.00′ N. lat., 122°31.67′ W. long.;
(109) 37°07.00′ N. lat., 122°28.00′ W. long.;
(110) 37°03.06′ N. lat., 122°24.22′ W. long.;
(111) 36°50.20′ N. lat., 122°03.58′ W. long.;
(112) 36°51.46′ N. lat., 121°57.54′ W. long.;
(113) 36°48.53′ N. lat., 121°57.84′ W. long.;
(114) 36°48.91′ N. lat., 121°49.92′ W. long.;
(115) 36°36.82′ N. lat., 122°00.66′ W. long.;
(116) 36°32.89′ N. lat., 121°58.85′ W. long.;
(117) 36°33.10′ N. lat., 121°57.56′ W. long.;
(118) 36°31.82′ N. lat., 121°55.96′ W. long.;
(119) 36°31.57′ N. lat., 121°58.15′ W. long.;
(120) 36°23.15′ N. lat., 121°57.12′ W. long.;
(121) 36°17.10′ N. lat., 122°00.53′ W. long.;
(122) 36°10.41′ N. lat., 121°42.88′ W. long.;
(123) 36°02.56′ N. lat., 121°36.37′ W. long.;
(124) 36°01.11′ N. lat., 121°36.39′ W. long.;
(125) 36°00.00′ N. lat., 121°35.15′ W. long.;
(126) 35°58.26′ N. lat., 121°32.88′ W. long.;
(127) 35°40.38′ N. lat., 121°22.59′ W. long.;
(128) 35°27.74′ N. lat., 121°04.69′ W. long.;
(129) 35°01.43′ N. lat., 120°48.01′ W. long.;
(130) 34°37.98′ N. lat., 120°46.48′ W. long.;
(131) 34°32.98′ N. lat., 120°43.34′ W. long.;
(132) 34°27.00′ N. lat., 120°33.31′ W. long.;
(133) 34°23.47′ N. lat., 120°24.76′ W. long.;
(134) 34°25.78′ N. lat., 120°16.82′ W. long.;
(135) 34°24.65′ N. lat., 120°04.83′ W. long.;
(136) 34°23.18′ N. lat., 119°56.18′ W. long.;
(137) 34°19.20′ N. lat., 119°41.64′ W. long.;
(138) 34°16.82′ N. lat., 119°35.32′ W. long.;
(139) 34°13.43′ N. lat., 119°32.29′ W. long.;
(140) 34°05.39′ N. lat., 119°15.13′ W. long.;
(141) 34°07.98′ N. lat., 119°13.43′ W. long.;
(142) 34°07.64′ N. lat., 119°13.10′ W. long.;
(143) 34°04.56′ N. lat., 119°13.73′ W. long.;
(144) 34°03.90′ N. lat., 119°12.66′ W. long.;
(145) 34°03.66′ N. lat., 119°06.82′ W. long.;
(146) 34°04.58′ N. lat., 119°04.91′ W. long.;
(147) 34°01.28′ N. lat., 119°00.21′ W. long.;
(148) 34°00.19′ N. lat., 119°03.14′ W. long.;
(149) 33°59.66′ N. lat., 119°03.10′ W. long.;
(150) 33°59.54′ N. lat., 119°00.88′ W. long.;
(151) 34°00.82′ N. lat., 118°59.03′ W. long.;
(152) 33°59.11′ N. lat., 118°47.52′ W. long.;
(153) 33°59.07′ N. lat., 118°36.33′ W. long.;
(154) 33°55.06′ N. lat., 118°32.86′ W. long.;
(155) 33°53.56′ N. lat., 118°37.75′ W. long.;
(156) 33°51.22′ N. lat., 118°36.14′ W. long.;
(157) 33°50.48′ N. lat., 118°32.16′ W. long.;
(158) 33°51.86′ N. lat., 118°28.71′ W. long.;
(159) 33°50.09′ N. lat., 118°27.88′ W. long.;
(160) 33°49.95′ N. lat., 118°26.38′ W. long.;
(161) 33°50.73′ N. lat., 118°26.17′ W. long.;
(162) 33°49.86′ N. lat., 118°24.25′ W. long.;
(163) 33°48.10′ N. lat., 118°26.87′ W. long.;
(164) 33°47.54′ N. lat., 118°29.66′ W. long.;
(165) 33°44.10′ N. lat., 118°25.25′ W. long.;
(166) 33°41.78′ N. lat., 118°20.28′ W. long.;
(167) 33°38.18′ N. lat., 118°15.69′ W. long.;
(168) 33°37.50′ N. lat., 118°16.71′ W. long.;
(169) 33°35.98′ N. lat., 118°16.54′ W. long.;
(170) 33°34.15′ N. lat., 118°11.22′ W. long.;
(171) 33°34.29′ N. lat., 118°08.35′ W. long.;
(172) 33°35.53′ N. lat., 118°06.66′ W. long.;
(173) 33°35.93′ N. lat., 118°04.78′ W. long.;
(174) 33°34.97′ N. lat., 118°02.91′ W. long.;
(175) 33°33.84′ N. lat., 117°59.77′ W. long.;
(176) 33°35.33′ N. lat., 117°55.89′ W. long.;
(177) 33°35.05′ N. lat., 117°53.72′ W. long.;
(178) 33°31.32′ N. lat., 117°48.01′ W. long.;
(179) 33°27.99′ N. lat., 117°45.19′ W. long.;
(180) 33°26.93′ N. lat., 117°44.24′ W. long.;
(181) 33°25.46′ N. lat., 117°42.06′ W. long.;
(182) 33°18.45′ N. lat., 117°35.73′ W. long.;
(183) 33°10.29′ N. lat., 117°25.68′ W. long.;
(184) 33°07.47′ N. lat., 117°21.62′ W. long.;
(185) 33°04.47′ N. lat., 117°21.24′ W. long.;
(186) 32°59.89′ N. lat., 117°19.11′ W. long.;
(187) 32°57.41′ N. lat., 117°18.64′ W. long.;
(188) 32°55.71′ N. lat., 117°18.99′ W. long.;
(189) 32°54.43′ N. lat., 117°16.93′ W. long.;
(190) 32°52.34′ N. lat., 117°16.73′ W. long.;
(191) 32°52.64′ N. lat., 117°17.76′ W. long.;
(192) 32°52.24′ N. lat., 117°19.36′ W. long.;
(193) 32°47.06′ N. lat., 117°21.92′ W. long.;
(194) 32°41.93′ N. lat., 117°19.68′ W. long.; and
(195) 32°33.59′ N. lat., 117°17.89′ W. long.

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(11) 48°10.00′ N. lat., 124°56.72′ W. long.;
(12) 48°06.90′ N. lat., 124°57.72′ W. long.;
(13) 48°02.23′ N. lat., 125°00.20′ W. long.;
(14) 48°00.87′ N. lat., 125°00.37′ W. long.;
(15) 47°56.30′ N. lat., 124°59.51′ W. long.;
(16) 47°46.84′ N. lat., 124°57.34′ W. long.;
(17) 47°36.49′ N. lat., 124°50.93′ W. long.;
(18) 47°32.01′ N. lat., 124°48.45′ W. long.;
(19) 47°27.19′ N. lat., 124°46.47′ W. long.;
(20) 47°21.76′ N. lat., 124°43.29′ W. long.;
(21) 47°17.82′ N. lat., 124°42.12′ W. long.;

(22) 47°08.87′ N. lat., 124°43.10′ W. long.;
(23) 47°03.16′ N. lat., 124°42.61′ W. long.;
(24) 46°49.70′ N. lat., 124°36.80′ W. long.;
(25) 46°42.91′ N. lat., 124°33.20′ W. long.;
(26) 46°39.67′ N. lat., 124°30.59′ W. long.;
(27) 46°38.17′ N. lat., 124°29.70′ W. long.;
(28) 46°32.47′ N. lat., 124°26.34′ W. long.;
(29) 46°23.69′ N. lat., 124°25.41′ W. long.;
(30) 46°20.84′ N. lat., 124°24.24′ W. long.;
(31) 46°16.00′ N. lat., 124°19.10′ W. long.;
(32) 46°15.97′ N. lat., 124°18.80′ W. long.;
(33) 46°11.23′ N. lat., 124°19.96′ W. long.;
(34) 46°02.51′ N. lat., 124°19.84′ W. long.;
(35) 45°59.05′ N. lat., 124°16.52′ W. long.;
(36) 45°50.99′ N. lat., 124°12.83′ W. long.;
(37) 45°46.00′ N. lat., 124°11.58′ W. long.;
(38) 45°45.85′ N. lat., 124°11.54′ W. long.;
(39) 45°38.53′ N. lat., 124°11.92′ W. long.;
(40) 45°30.90′ N. lat., 124°10.94′ W. long.;
(41) 45°21.20′ N. lat., 124°09.12′ W. long.;
(42) 45°12.43′ N. lat., 124°08.74′ W. long.;
(43) 45°03.83′ N. lat., 124°10.94′ W. long.;
(44) 44°59.89′ N. lat., 124°11.95′ W. long.;
(45) 44°51.96′ N. lat., 124°15.15′ W. long.;
(46) 44°44.63′ N. lat., 124°20.07′ W. long.;
(47) 44°39.23′ N. lat., 124°28.09′ W. long.;
(48) 44°30.61′ N. lat., 124°31.66′ W. long.;
(49) 44°26.20′ N. lat., 124°35.87′ W. long.;
(50) 44°23.65′ N. lat., 124°39.07′ W. long.;
(51) 44°20.30′ N. lat., 124°38.72′ W. long.;
(52) 44°13.52′ N. lat., 124°40.45′ W. long.;
(53) 44°10.97′ N. lat., 124°38.78′ W. long.;
(54) 44°08.71′ N. lat., 124°33.54′ W. long.;
(55) 44°04.91′ N. lat., 124°24.55′ W. long.;
(56) 43°57.49′ N. lat., 124°20.05′ W. long.;
(57) 43°50.26′ N. lat., 124°21.85′ W. long.;
(58) 43°41.69′ N. lat., 124°21.94′ W. long.;
(59) 43°35.51′ N. lat., 124°21.51′ W. long.;
(60) 43°25.77′ N. lat., 124°28.47′ W. long.;
(61) 43°20.83′ N. lat., 124°31.26′ W. long.;
(62) 43°20.25′ N. lat., 124°31.59′ W. long.;
(63) 43°12.73′ N. lat., 124°36.68′ W. long.;
(64) 43°08.08′ N. lat., 124°36.10′ W. long.;
(65) 43°00.33′ N. lat., 124°37.57′ W. long.;
(66) 42°53.99′ N. lat., 124°41.03′ W. long.;
(67) 42°50.00′ N. lat., 124°41.09′ W. long.;
(68) 42°46.66′ N. lat., 124°41.13′ W. long.;
(69) 42°41.74′ N. lat., 124°37.46′ W. long.;
(70) 42°40.50′ N. lat., 124°37.39′ W. long.;
(71) 42°37.42′ N. lat., 124°37.22′ W. long.;
(72) 42°27.35′ N. lat., 124°39.91′ W. long.;
(73) 42°23.94′ N. lat., 124°38.29′ W. long.;
(74) 42°17.72′ N. lat., 124°31.10′ W. long.;
(75) 42°10.36′ N. lat., 124°29.11′ W. long.;
(76) 42°00.00′ N. lat., 124°28.00′ W. long.;
(77) 41°54.87′ N. lat., 124°28.50′ W. long.;
(78) 41°45.80′ N. lat., 124°23.89′ W. long.;
(79) 41°34.40′ N. lat., 124°24.03′ W. long.;
(80) 41°28.33′ N. lat., 124°25.46′ W. long.;
(81) 41°15.80′ N. lat., 124°18.90′ W. long.;
(82) 41°09.77′ N. lat., 124°17.99′ W. long.;
(83) 41°02.26′ N. lat., 124°18.71′ W. long.;
(84) 40°53.54′ N. lat., 124°21.18′ W. long.;
(85) 40°49.93′ N. lat., 124°23.02′ W. long.;
(86) 40°43.15′ N. lat., 124°28.74′ W. long.;
(87) 40°40.19′ N. lat., 124°29.07′ W. long.;
(88) 40°36.77′ N. lat., 124°27.61′ W. long.;
(89) 40°34.13′ N. lat., 124°29.39′ W. long.;
(90) 40°33.15′ N. lat., 124°33.46′ W. long.;
(91) 40°30.00′ N. lat., 124°35.84′ W. long.;
(92) 40°24.72′ N. lat., 124°33.06′ W. long.;
(93) 40°23.91′ N. lat., 124°31.28′ W. long.;
(94) 40°23.67′ N. lat., 124°28.35′ W. long.;
(95) 40°22.53′ N. lat., 124°24.72′ W. long.;
(96) 40°21.51′ N. lat., 124°24.86′ W. long.;
(97) 40°21.02′ N. lat., 124°27.70′ W. long.;
(98) 40°19.75′ N. lat., 124°27.06′ W. long.;
(99) 40°18.23′ N. lat., 124°25.30′ W. long.;
(100) 40°18.60′ N. lat., 124°22.86′ W. long.;
(101) 40°15.43′ N. lat., 124°25.37′ W. long.;
(102) 40°15.55′ N. lat., 124°28.16′ W. long.;
(103) 40°11.27′ N. lat., 124°22.56′ W. long.;
(104) 40°10.00′ N. lat., 124°19.97′ W. long.;
(105) 40°09.20′ N. lat., 124°15.81′ W. long.;
(106) 40°07.51′ N. lat., 124°15.29′ W. long.;
(107) 40°05.22′ N. lat., 124°10.06′ W. long.;
(108) 40°06.51′ N. lat., 124°08.01′ W. long.;
(109) 40°00.72′ N. lat., 124°08.45′ W. long.;
(110) 39°56.60′ N. lat., 124°07.12′ W. long.;
(111) 39°52.58′ N. lat., 124°03.57′ W. long.;
(112) 39°50.65′ N. lat., 123°57.98′ W. long.;
(113) 39°40.16′ N. lat., 123°52.41′ W. long.;
(114) 39°30.12′ N. lat., 123°52.92′ W. long.;
(115) 39°24.53′ N. lat., 123°55.16′ W. long.;
(116) 39°11.58′ N. lat., 123°50.93′ W. long.;
(117) 38°57.50′ N. lat., 123°51.14′ W. long.;
(118) 38°55.13′ N. lat., 123°51.14′ W. long.;
(119) 38°28.58′ N. lat., 123°22.84′ W. long.;
(120) 38°08.57′ N. lat., 123°14.74′ W. long.;
(121) 38°00.00′ N. lat., 123°15.61′ W. long.;
(122) 37°56.98′ N. lat., 123°21.82′ W. long.;
(123) 37°49.65′ N. lat., 123°17.48′ W. long.;
(124) 37°36.41′ N. lat., 122°58.09′ W. long.;
(125) 37°11.00′ N. lat., 122°40.22′ W. long.;
(126) 37°07.00′ N. lat., 122°37.64′ W. long.;

(127) 37°02.08′ N. lat., 122°25.49′ W. long.;
(128) 36°48.20′ N. lat., 122°03.32′ W. long.;
(129) 36°51.46′ N. lat., 121°57.54′ W. long.;
(130) 36°48.13′ N. lat., 121°58.16′ W. long.;
(131) 36°48.84′ N. lat., 121°50.06′ W. long.;
(132) 36°45.38′ N. lat., 121°53.56′ W. long.;
(133) 36°45.13′ N. lat., 121°57.06′ W. long.;
(134) 36°36.86′ N. lat., 122°00.81′ W. long.;
(135) 36°32.77′ N. lat., 121°58.90′ W. long.;
(136) 36°33.03′ N. lat., 121°57.63′ W. long.;
(137) 36°31.87′ N. lat., 121°56.10′ W. long.;
(138) 36°31.59′ N. lat., 121°58.27′ W. long.;
(139) 36°23.26′ N. lat., 121°57.70′ W. long.;
(140) 36°17.30′ N. lat., 122°01.55′ W. long.;
(141) 36°10.42′ N. lat., 121°42.90′ W. long.;
(142) 36°02.55′ N. lat., 121°36.35′ W. long.;
(143) 36°01.09′ N. lat., 121°36.41′ W. long.;
(144) 36°00.00′ N. lat., 121°35.34′ W. long.;
(145) 35°58.25′ N. lat., 121°32.88′ W. long.;
(146) 35°40.38′ N. lat., 121°22.59′ W. long.;
(147) 35°26.31′ N. lat., 121°03.73′ W. long.;
(148) 35°01.36′ N. lat., 120°49.02′ W. long.;
(149) 34°39.52′ N. lat., 120°48.72′ W. long.;
(150) 34°31.26′ N. lat., 120°44.12′ W. long.;
(151) 34°27.00′ N. lat., 120°36.00′ W. long.;
(152) 34°23.00′ N. lat., 120°25.32′ W. long.;
(153) 34°25.65′ N. lat., 120°17.20′ W. long.;
(154) 34°23.18′ N. lat., 119°56.17′ W. long.;
(155) 34°18.73′ N. lat., 119°41.89′ W. long.;
(156) 34°11.18′ N. lat., 119°31.21′ W. long.;
(157) 34°10.01′ N. lat., 119°25.84′ W. long.;
(158) 34°03.88′ N. lat., 119°12.46′ W. long.;
(159) 34°03.58′ N. lat., 119°06.71′ W. long.;
(160) 34°04.52′ N. lat., 119°04.89′ W. long.;
(161) 34°01.28′ N. lat., 119°00.27′ W. long.;
(162) 34°00.20′ N. lat., 119°03.18′ W. long.;
(163) 33°59.60′ N. lat., 119°03.14′ W. long.;
(164) 33°59.45′ N. lat., 119°00.87′ W. long.;
(165) 34°00.71′ N. lat., 118°59.07′ W. long.;
(166) 33°59.05′ N. lat., 118°47.34′ W. long.;
(167) 33°58.86′ N. lat., 118°36.24′ W. long.;
(168) 33°55.05′ N. lat., 118°32.85′ W. long.;
(169) 33°53.63′ N. lat., 118°37.88′ W. long.;
(170) 33°51.22′ N. lat., 118°36.13′ W. long.;
(171) 33°50.19′ N. lat., 118°32.19′ W. long.;
(172) 33°51.28′ N. lat., 118°29.12′ W. long.;
(173) 33°49.89′ N. lat., 118°28.04′ W. long.;
(174) 33°49.95′ N. lat., 118°26.38′ W. long.;
(175) 33°50.73′ N. lat., 118°26.16′ W. long.;
(176) 33°50.06′ N. lat., 118°24.79′ W. long.;
(177) 33°48.48′ N. lat., 118°26.86′ W. long.;
(178) 33°47.75′ N. lat., 118°30.21′ W. long.;
(179) 33°44.10′ N. lat., 118°25.25′ W. long.;
(180) 33°41.77′ N. lat., 118°20.32′ W. long.;
(181) 33°38.17′ N. lat., 118°15.69′ W. long.;
(182) 33°37.48′ N. lat., 118°16.72′ W. long.;
(183) 33°35.80′ N. lat., 118°16.65′ W. long.;
(184) 33°33.92′ N. lat., 118°11.36′ W. long.;
(185) 33°34.09′ N. lat., 118°08.15′ W. long.;
(186) 33°35.73′ N. lat., 118°05.01′ W. long.;
(187) 33°33.75′ N. lat., 117°59.82′ W. long.;
(188) 33°35.25′ N. lat., 117°55.89′ W. long.;
(189) 33°35.03′ N. lat., 117°53.80′ W. long.;
(190) 33°31.37′ N. lat., 117°48.15′ W. long.;
(191) 33°27.49′ N. lat., 117°44.85′ W. long.;
(192) 33°16.63′ N. lat., 117°34.01′ W. long.;
(193) 33°07.21′ N. lat., 117°21.96′ W. long.;
(194) 33°03.35′ N. lat., 117°21.22′ W. long.;
(195) 33°02.14′ N. lat., 117°20.26′ W. long.;
(196) 32°59.87′ N. lat., 117°19.16′ W. long.;
(197) 32°57.39′ N. lat., 117°18.72′ W. long.;
(198) 32°56.11′ N. lat., 117°18.41′ W. long.;
(199) 32°55.31′ N. lat., 117°18.80′ W. long.;
(200) 32°54.38′ N. lat., 117°17.09′ W. long.;
(201) 32°52.81′ N. lat., 117°16.94′ W. long.;
(202) 32°52.56′ N. lat., 117°19.30′ W. long.;
(203) 32°50.86′ N. lat., 117°20.98′ W. long.;
(204) 32°46.96′ N. lat., 117°22.69′ W. long.;
(205) 32°45.58′ N. lat., 117°22.38′ W. long.;
(206) 32°44.98′ N. lat., 117°21.87′ W. long.;
(207) 32°43.52′ N. lat., 117°19.32′ W. long.;
(208) 32°41.52′ N. lat., 117°20.12′ W. long.;
(209) 32°37.00′ N. lat., 117°20.10′ W. long.;
(210) 32°34.76′ N. lat., 117°18.77′ W. long.; and
(211) 32°33.70′ N. lat., 117°18.46′ W. long.

(g) * * *

(1) 34°09.83′ N. lat., 120°25.61′ W. long.;
(2) 34°07.03′ N. lat., 120°16.43′ W. long.;
(3) 34°06.38′ N. lat., 120°04.00′ W. long.;
(4) 34°07.90′ N. lat., 119°55.12′ W. long.;
(5) 34°05.07′ N. lat., 119°37.33′ W. long.;
(6) 34°05.04′ N. lat., 119°32.80′ W. long.;
(7) 34°04.00′ N. lat., 119°26.70′ W. long.;
(8) 34°02.27′ N. lat., 119°18.73′ W. long.;
(9) 34°00.98′ N. lat., 119°19.10′ W. long.;
(10) 33°59.44′ N. lat., 119°21.89′ W. long.;
(11) 33°58.70′ N. lat., 119°32.22′ W. long.;
(12) 33°57.81′ N. lat., 119°33.72′ W. long.;
(13) 33°57.65′ N. lat., 119°35.94′ W. long.;
(14) 33°56.14′ N. lat., 119°41.09′ W. long.;
(15) 33°55.84′ N. lat., 119°48.00′ W. long.;
(16) 33°57.22′ N. lat., 119°52.09′ W. long.;
(17) 33°59.32′ N. lat., 119°55.65′ W. long.;
(18) 33°57.73′ N. lat., 119°55.06′ W. long.;
(19) 33°56.48′ N. lat., 119°53.80′ W. long.;

(20) 33°49.29′ N. lat., 119°55.76′ W. long.;
(21) 33°48.11′ N. lat., 119°59.72′ W. long.;
(22) 33°49.14′ N. lat., 120°03.58′ W. long.;
(23) 33°52.95′ N. lat., 120°10.00′ W. long.;
(24) 33°56.00′ N. lat., 120°17.00′ W. long.;
(25) 34°00.12′ N. lat., 120°28.12′ W. long.;
(26) 34°08.23′ N. lat., 120°36.25′ W. long.;
(27) 34°08.80′ N. lat., 120°34.58′ W. long.; and
(28) 34°09.83′ N. lat., 120°25.61′ W. long.

(h) * * *
(1) 33°04.44′ N. lat., 118°37.61′ W. long.;
(2) 33°02.56′ N. lat., 118°34.12′ W. long.;
(3) 32°55.54′ N. lat., 118°28.87′ W. long.;
(4) 32°55.02′ N. lat., 118°27.69′ W. long.;
(5) 32°49.78′ N. lat., 118°20.88′ W. long.;
(6) 32°48.32′ N. lat., 118°19.89′ W. long.;
(7) 32°47.60′ N. lat., 118°22.00′ W. long.;
(8) 32°44.59′ N. lat., 118°24.52′ W. long.;
(9) 32°49.97′ N. lat., 118°31.52′ W. long.;
(10) 32°53.62′ N. lat., 118°32.94′ W. long.;
(11) 32°55.63′ N. lat., 118°34.82′ W. long.;
(12) 33°00.71′ N. lat., 118°38.42′ W. long.;
(13) 33°03.49′ N. lat., 118°38.81′ W. long.; and
(14) 33°04.44′ N. lat., 118°37.61′ W. long.

(i) * * *
(1) 33°28.15′ N. lat., 118°38.17′ W. long.;
(2) 33°29.23′ N. lat., 118°36.27′ W. long.;
(3) 33°28.85′ N. lat., 118°30.85′ W. long.;
(4) 33°26.69′ N. lat., 118°27.37′ W. long.;
(5) 33°26.30′ N. lat., 118°25.38′ W. long.;
(6) 33°25.35′ N. lat., 118°22.83′ W. long.;
(7) 33°22.60′ N. lat., 118°18.82′ W. long.;
(8) 33°19.49′ N. lat., 118°16.91′ W. long.;
(9) 33°17.13′ N. lat., 118°16.58′ W. long.;
(10) 33°16.65′ N. lat., 118°17.71′ W. long.;
(11) 33°18.35′ N. lat., 118°27.86′ W. long.;
(12) 33°20.07′ N. lat., 118°32.34′ W. long.;
(13) 33°21.82′ N. lat., 118°32.08′ W. long.;
(14) 33°23.15′ N. lat., 118°29.89′ W. long.;
(15) 33°24.99′ N. lat., 118°32.25′ W. long.;
(16) 33°25.73′ N. lat., 118°34.88′ W. long.; and
(17) 33°28.15′ N. lat., 118°38.17′ W. long.

(j) * * *
(37) 46°38.17′ N. lat., 124°33.20′ W. long.;
(38) 46°34.09′ N. lat., 124°27.03′ W. long.;
(39) 46°24.64′ N. lat., 124°30.33′ W. long.;
(40) 46°19.98′ N. lat., 124°36.00′ W. long.;
(41) 46°18.14′ N. lat., 124°34.26′ W. long.;
(42) 46°18.72′ N. lat., 124°22.68′ W. long.;
(43) 46°16.00′ N. lat., 124°19.49′ W. long.;
(44) 46°14.63′ N. lat., 124°22.54′ W. long.;
(45) 46°11.08′ N. lat., 124°30.74′ W. long.;
(46) 46°04.28′ N. lat., 124°31.49′ W. long.;
(47) 45°55.97′ N. lat., 124°19.95′ W. long.;
(48) 45°46.00′ N. lat., 124°16.41′ W. long.;
(49) 45°44.97′ N. lat., 124°15.95′ W. long.;
(50) 45°43.14′ N. lat., 124°21.86′ W. long.;
(51) 45°34.45′ N. lat., 124°14.44′ W. long.;
(52) 45°20.25′ N. lat., 124°12.23′ W. long.;
(53) 45°15.49′ N. lat., 124°11.49′ W. long.;
(54) 45°03.83′ N. lat., 124°13.75′ W. long.;
(55) 44°57.31′ N. lat., 124°15.03′ W. long.;
(56) 44°43.90′ N. lat., 124°28.88′ W. long.;
(57) 44°28.64′ N. lat., 124°35.67′ W. long.;
(58) 44°25.31′ N. lat., 124°43.08′ W. long.;
(59) 44°16.28′ N. lat., 124°47.86′ W. long.;
(60) 44°13.47′ N. lat., 124°54.08′ W. long.;
(61) 44°02.88′ N. lat., 124°53.96′ W. long.;
(62) 44°00.14′ N. lat., 124°55.25′ W. long.;
(63) 43°57.68′ N. lat., 124°55.48′ W. long.;
(64) 43°56.66′ N. lat., 124°55.45′ W. long.;
(65) 43°57.50′ N. lat., 124°41.23′ W. long.;
(66) 44°01.79′ N. lat., 124°38.00′ W. long.;
(67) 44°02.17′ N. lat., 124°32.62′ W. long.;
(68) 43°58.15′ N. lat., 124°30.39′ W. long.;
(69) 43°53.25′ N. lat., 124°31.39′ W. long.;
(70) 43°35.56′ N. lat., 124°28.17′ W. long.;
(71) 43°21.84′ N. lat., 124°36.07′ W. long.;
(72) 43°20.83′ N. lat., 124°35.49′ W. long.;
(73) 43°19.73′ N. lat., 124°34.87′ W. long.;
(74) 43°09.38′ N. lat., 124°39.29′ W. long.;
(75) 43°07.11′ N. lat., 124°37.66′ W. long.;
(76) 42°56.27′ N. lat., 124°43.28′ W. long.;
(77) 42°50.00′ N. lat., 124°42.30′ W. long.;
(78) 42°45.01′ N. lat., 124°41.50′ W. long.;
(79) 42°40.50′ N. lat., 124°39.46′ W. long.;
(80) 42°39.71′ N. lat., 124°39.11′ W. long.;
(81) 42°32.87′ N. lat., 124°40.13′ W. long.;
(82) 42°32.30′ N. lat., 124°39.04′ W. long.;
(83) 42°26.96′ N. lat., 124°44.30′ W. long.;
(84) 42°24.11′ N. lat., 124°42.16′ W. long.;
(85) 42°21.10′ N. lat., 124°35.46′ W. long.;
(86) 42°14.72′ N. lat., 124°32.30′ W. long.;
(87) 42°13.67′ N. lat., 124°32.29′ W. long.;
(88) 42°09.25′ N. lat., 124°32.04′ W. long.;
(89) 42°01.88′ N. lat., 124°32.71′ W. long.;
(90) 42°00.00′ N. lat., 124°32.02′ W. long.;
(91) 41°46.18′ N. lat., 124°26.60′ W. long.;
(92) 41°29.22′ N. lat., 124°28.04′ W. long.;
(93) 41°09.62′ N. lat., 124°19.75′ W. long.;
(94) 40°50.71′ N. lat., 124°23.80′ W. long.;
(95) 40°43.35′ N. lat., 124°29.30′ W. long.;
(96) 40°40.24′ N. lat., 124°29.86′ W. long.;
(97) 40°37.50′ N. lat., 124°28.68′ W. long.;
(98) 40°34.42′ N. lat., 124°29.65′ W. long.;
(99) 40°34.74′ N. lat., 124°34.61′ W. long.;

(100) 40°31.70′ N. lat., 124°37.13′ W. long.;
(101) 40°30.00′ N. lat., 124°36.50′ W. long.;
(102) 40°25.03′ N. lat., 124°34.77′ W. long.;
(103) 40°23.58′ N. lat., 124°31.49′ W. long.;
(104) 40°23.64′ N. lat., 124°28.35′ W. long.;
(105) 40°22.53′ N. lat., 124°24.76′ W. long.;
(106) 40°21.46′ N. lat., 124°24.86′ W. long.;
(107) 40°21.74′ N. lat., 124°27.63′ W. long.;
(108) 40°19.76′ N. lat., 124°28.15′ W. long.;
(109) 40°18.00′ N. lat., 124°25.38′ W. long.;
(110) 40°18.54′ N. lat., 124°22.94′ W. long.;
(111) 40°15.55′ N. lat., 124°25.75′ W. long.;
(112) 40°16.06′ N. lat., 124°30.48′ W. long.;
(113) 40°15.75′ N. lat., 124°31.69′ W. long.;
(114) 40°10.00′ N. lat., 124°21.28′ W. long.;
(115) 40°08.37′ N. lat., 124°17.99′ W. long.;
(116) 40°09.00′ N. lat., 124°15.77′ W. long.;
(117) 40°06.93′ N. lat., 124°16.49′ W. long.;
(118) 40°03.60′ N. lat., 124°11.60′ W. long.;
(119) 40°06.20′ N. lat., 124°08.23′ W. long.;
(120) 40°00.94′ N. lat., 124°08.57′ W. long.;
(121) 40°00.01′ N. lat., 124°09.84′ W. long.;
(122) 39°57.75′ N. lat., 124°09.53′ W. long.;
(123) 39°55.56′ N. lat., 124°07.67′ W. long.;
(124) 39°52.21′ N. lat., 124°05.54′ W. long.;
(125) 39°48.07′ N. lat., 123°57.48′ W. long.;
(126) 39°41.60′ N. lat., 123°55.12′ W. long.;
(127) 39°30.39′ N. lat., 123°55.03′ W. long.;
(128) 39°29.48′ N. lat., 123°56.12′ W. long.;
(129) 39°13.76′ N. lat., 123°54.65′ W. long.;
(130) 39°05.21′ N. lat., 123°55.38′ W. long.;
(131) 38°57.50′ N. lat., 123°54.50′ W. long.;
(132) 38°55.90′ N. lat., 123°54.35′ W. long.;
(133) 38°48.59′ N. lat., 123°49.61′ W. long.;
(134) 38°28.82′ N. lat., 123°27.44′ W. long.;
(135) 38°09.70′ N. lat., 123°18.66′ W. long.;
(136) 38°01.81′ N. lat., 123°19.22′ W. long.;
(137) 38°00.00′ N. lat., 123°22.19′ W. long.;
(138) 37°57.70′ N. lat., 123°25.98′ W. long.;
(139) 37°56.73′ N. lat., 123°25.22′ W. long.;
(140) 37°55.59′ N. lat., 123°25.62′ W. long.;
(141) 37°52.79′ N. lat., 123°23.85′ W. long.;
(142) 37°49.13′ N. lat., 123°18.83′ W. long.;
(143) 37°46.01′ N. lat., 123°12.28′ W. long.;
(144) 37°35.67′ N. lat., 123°00.33′ W. long.;
(145) 37°28.20′ N. lat., 122°54.92′ W. long.;
(146) 37°27.34′ N. lat., 122°52.91′ W. long.;
(147) 37°26.45′ N. lat., 122°52.95′ W. long.;
(148) 37°26.06′ N. lat., 122°51.17′ W. long.;
(149) 37°23.07′ N. lat., 122°51.34′ W. long.;
(150) 37°11.00′ N. lat., 122°43.89′ W. long.;
(151) 37°07.00′ N. lat., 122°41.06′ W. long.;
(152) 37°04.12′ N. lat., 122°38.94′ W. long.;
(153) 37°00.64′ N. lat., 122°33.26′ W. long.;
(154) 36°59.15′ N. lat., 122°27.84′ W. long.;
(155) 37°1.41′ N. lat., 122°24.41′ W. long.;
(156) 36°58.75′ N. lat., 122°23.81′ W. long.;
(157) 36°59.17′ N. lat., 122°21.44′ W. long.;
(158) 36°57.51′ N. lat., 122°20.69′ W. long.;
(159) 36°51.46′ N. lat., 122°10.01′ W. long.;
(160) 36°48.43′ N. lat., 122°06.47′ W. long.;
(161) 36°48.66′ N. lat., 122°04.99′ W. long.;
(162) 36°47.75′ N. lat., 122°03.33′ W. long.;
(163) 36°51.23′ N. lat., 121°57.79′ W. long.;
(164) 36°49.72′ N. lat., 121°57.87′ W. long.;
(165) 36°48.84′ N. lat., 121°58.68′ W. long.;
(166) 36°47.89′ N. lat., 121°58.53′ W. long.;
(167) 36°48.66′ N. lat., 121°50.49′ W. long.;
(168) 36°45.56′ N. lat., 121°54.11′ W. long.;
(169) 36°45.30′ N. lat., 121°57.62′ W. long.;
(170) 36°38.54′ N. lat., 122°01.13′ W. long.;
(171) 36°35.76′ N. lat., 122°00.87′ W. long.;
(172) 36°32.58′ N. lat., 121°59.12′ W. long.;
(173) 36°32.95′ N. lat., 121°57.62′ W. long.;
(174) 36°31.96′ N. lat., 121°56.27′ W. long.;
(175) 36°31.74′ N. lat., 121°58.24′ W. long.;
(176) 36°30.57′ N. lat., 121°59.66′ W. long.;
(177) 36°27.80′ N. lat., 121°59.30′ W. long.;
(178) 36°26.52′ N. lat., 121°58.09′ W. long.;
(179) 36°23.65′ N. lat., 121°58.94′ W. long.;
(180) 36°20.93′ N. lat., 122°00.28′ W. long.;
(181) 36°18.23′ N. lat., 122°03.10′ W. long.;
(182) 36°14.21′ N. lat., 121°57.73′ W. long.;
(183) 36°14.68′ N. lat., 121°55.43′ W. long.;
(184) 36°10.42′ N. lat., 121°42.90′ W. long.;
(185) 36°02.55′ N. lat., 121°36.35′ W. long.;
(186) 36°01.04′ N. lat., 121°36.47′ W. long.;
(187) 36°00.00′ N. lat., 121°35.40′ W. long.;
(188) 35°58.25′ N. lat., 121°32.88′ W. long.;
(189) 35°39.35′ N. lat., 121°22.63′ W. long.;
(190) 35°25.09′ N. lat., 121°03.02′ W. long.;
(191) 35°10.84′ N. lat., 120°55.90′ W. long.;
(192) 35°04.35′ N. lat., 120°51.62′ W. long.;
(193) 34°55.25′ N. lat., 120°49.36′ W. long.;
(194) 34°47.95′ N. lat., 120°50.76′ W. long.;
(195) 34°39.27′ N. lat., 120°49.16′ W. long.;
(196) 34°31.05′ N. lat., 120°44.71′ W. long.;
(197) 34°27.00′ N. lat., 120°36.54′ W. long.;
(198) 34°22.60′ N. lat., 120°25.41′ W. long.;
(199) 34°25.45′ N. lat., 120°17.41′ W. long.;
(200) 34°22.94′ N. lat., 119°56.40′ W. long.;
(201) 34°18.37′ N. lat., 119°42.01′ W. long.;
(202) 34°11.22′ N. lat., 119°32.47′ W. long.;
(203) 34°09.58′ N. lat., 119°25.94′ W. long.;
(204) 34°03.89′ N. lat., 119°12.47′ W. long.;

(205) 34°03.57′ N. lat., 119°06.72′ W. long.;
(206) 34°04.53′ N. lat., 119°04.90′ W. long.;
(207) 34°02.84′ N. lat., 119°02.37′ W. long.;
(208) 34°01.30′ N. lat., 119°00.26′ W. long.;
(209) 34°00.22′ N. lat., 119°03.20′ W. long.;
(210) 33°59.56′ N. lat., 119°03.36′ W. long.;
(211) 33°59.35′ N. lat., 119°00.92′ W. long.;
(212) 34°00.49′ N. lat., 118°59.08′ W. long.;
(213) 33°59.07′ N. lat., 118°47.34′ W. long.;
(214) 33°58.73′ N. lat., 118°36.45′ W. long.;
(215) 33°55.24′ N. lat., 118°33.42′ W. long.;
(216) 33°53.71′ N. lat., 118°38.01′ W. long.;
(217) 33°51.19′ N. lat., 118°36.50′ W. long.;
(218) 33°49.85′ N. lat., 118°32.31′ W. long.;
(219) 33°49.61′ N. lat., 118°28.07′ W. long.;
(220) 33°49.77′ N. lat., 118°26.34′ W. long.;
(221) 33°50.36′ N. lat., 118°25.84′ W. long.;
(222) 33°49.92′ N. lat., 118°25.05′ W. long.;
(223) 33°48.70′ N. lat., 118°26.70′ W. long.;
(224) 33°47.72′ N. lat., 118°30.48′ W. long.;
(225) 33°44.11′ N. lat., 118°25.25′ W. long.;
(226) 33°41.62′ N. lat., 118°20.31′ W. long.;
(227) 33°38.15′ N. lat., 118°15.85′ W. long.;
(228) 33°37.53′ N. lat., 118°16.82′ W. long.;
(229) 33°35.76′ N. lat., 118°16.75′ W. long.;
(230) 33°33.76′ N. lat., 118°11.37′ W. long.;
(231) 33°33.76′ N. lat., 118°07.94′ W. long.;
(232) 33°35.59′ N. lat., 118°05.05′ W. long.;
(233) 33°33.67′ N. lat., 117°59.98′ W. long.;
(234) 33°34.98′ N. lat., 117°55.66′ W. long.;
(235) 33°34.84′ N. lat., 117°53.83′ W. long.;
(236) 33°31.43′ N. lat., 117°48.76′ W. long.;
(237) 33°16.61′ N. lat., 117°34.49′ W. long.;
(238) 33°07.43′ N. lat., 117°22.40′ W. long.;
(239) 33°02.93′ N. lat., 117°21.12′ W. long.;
(240) 33°02.09′ N. lat., 117°20.28′ W. long.;
(241) 32°59.91′ N. lat., 117°19.28′ W. long.;
(242) 32°57.27′ N. lat., 117°18.82′ W. long.;
(243) 32°56.17′ N. lat., 117°19.43′ W. long.;
(244) 32°55.22′ N. lat., 117°19.09′ W. long.;
(245) 32°54.30′ N. lat., 117°17.13′ W. long.;
(246) 32°52.89′ N. lat., 117°17.03′ W. long.;
(247) 32°52.61′ N. lat., 117°19.50′ W. long.;
(248) 32°50.85′ N. lat., 117°21.14′ W. long.;
(249) 32°47.11′ N. lat., 117°22.95′ W. long.;
(250) 32°45.66′ N. lat., 117°22.60′ W. long.;
(251) 32°42.99′ N. lat., 117°20.70′ W. long.;
(252) 32°40.72′ N. lat., 117°20.23′ W. long.;
(253) 32°38.11′ N. lat., 117°20.59′ W. long.; and
(254) 32°33.83′ N. lat., 117°19.18′ W. long.

(k) * * *
(1) 34°10.82′ N. lat., 120°33.26′ W. long.;
(2) 34°11.78′ N. lat., 120°28.12′ W. long.;
(3) 34°08.65′ N. lat., 120°18.46′ W. long.;
(4) 34°07.01′ N. lat., 120°10.46′ W. long.;
(5) 34°06.56′ N. lat., 120°04.00′ W. long.;
(6) 34°08.11′ N. lat., 119°55.01′ W. long.;
(7) 34°05.18′ N. lat., 119°37.94′ W. long.;
(8) 34°05.22′ N. lat., 119°35.52′ W. long.;
(9) 34°05.12′ N. lat., 119°32.74′ W. long.;
(10) 34°04.32′ N. lat., 119°27.32′ W. long.;
(11) 34°02.32′ N. lat., 119°18.46′ W. long.;
(12) 34°00.95′ N. lat., 119°18.95′ W. long.;
(13) 33°59.40′ N. lat., 119°21.74′ W. long.;
(14) 33°58.70′ N. lat., 119°32.21′ W. long.;
(15) 33°56.12′ N. lat., 119°41.10′ W. long.;
(16) 33°55.74′ N. lat., 119°48.00′ W. long.;
(17) 33°56.91′ N. lat., 119°52.04′ W. long.;
(18) 33°59.06′ N. lat., 119°55.38′ W. long.;
(19) 33°57.82′ N. lat., 119°54.99′ W. long.;
(20) 33°56.58′ N. lat., 119°53.75′ W. long.;
(21) 33°54.43′ N. lat., 119°54.07′ W. long.;
(22) 33°52.67′ N. lat., 119°54.78′ W. long.;
(23) 33°48.33′ N. lat., 119°55.09′ W. long.;
(24) 33°47.28′ N. lat., 119°57.30′ W. long.;
(25) 33°47.36′ N. lat., 120°00.39′ W. long.;
(26) 33°49.16′ N. lat., 120°05.06′ W. long.;
(27) 33°52.00′ N. lat., 120°08.15′ W. long.;
(28) 33°58.11′ N. lat., 120°25.59′ W. long.;
(29) 34°02.15′ N. lat., 120°32.70′ W. long.;
(30) 34°08.86′ N. lat., 120°37.12′ W. long.; and
(31) 34°10.82′ N. lat., 120°33.26′ W. long.

* * * * *

(m) * * *
(1) 33°28.17′ N. lat., 118°38.16′ W. long.;
(2) 33°29.35′ N. lat., 118°36.23′ W. long.;
(3) 33°28.85′ N. lat., 118°30.85′ W. long.;
(4) 33°26.69′ N. lat., 118°27.37′ W. long.;
(5) 33°26.33′ N. lat., 118°25.37′ W. long.;
(6) 33°25.35′ N. lat., 118°22.83′ W. long.;
(7) 33°22.47′ N. lat., 118°18.53′ W. long.;
(8) 33°19.51′ N. lat., 118°16.82′ W. long.;
(9) 33°17.07′ N. lat., 118°16.38′ W. long.;
(10) 33°16.58′ N. lat., 118°17.61′ W. long.;
(11) 33°18.35′ N. lat., 118°27.86′ W. long.;
(12) 33°20.07′ N. lat., 118°32.35′ W. long.;
(13) 33°21.82′ N. lat., 118°32.09′ W. long.;
(14) 33°23.15′ N. lat., 118°29.99′ W. long.;
(15) 33°24.96′ N. lat., 118°32.21′ W. long.;
(16) 33°25.67′ N. lat., 118°34.88′ W. long.;
(17) 33°27.57′ N. lat., 118°37.90′ W. long.; and
(18) 33°28.17′ N. lat., 118°38.16′ W. long.

■ 18. In § 660.393:
■ (a) Paragraphs (a)(34) through (297) are revised, and new paragraphs (a)(298) through (307) are added.
■ (b) Paragraphs (h)(1) through (291) are revised, and new paragraphs (h)(292) through (302) are added.

The revisions and additions read as follows:

§ 660.393 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

(a) * * *

(34) 48°03.45′ N. lat., 125°16.66′ W. long.;

(35) 48°02.35′ N. lat., 125°17.30′ W. long.;

(36) 48°02.35′ N. lat., 125°18.07′ W. long.;

(37) 48°00.00′ N. lat., 125°19.30′ W. long.;

(38) 47°59.50′ N. lat., 125°18.88′ W. long.;

(39) 47°58.68′ N. lat., 125°16.19′ W. long.;

(40) 47°56.62′ N. lat., 125°13.50′ W. long.;

(41) 47°53.71′ N. lat., 125°11.96′ W. long.;

(42) 47°51.70′ N. lat., 125°09.38′ W. long.;

(43) 47°49.95′ N. lat., 125°06.07′ W. long.;

(44) 47°49.00′ N. lat., 125°03.00′ W. long.;

(45) 47°46.95′ N. lat., 125°04.00′ W. long.;

(46) 47°46.58′ N. lat., 125°03.15′ W. long.;

(47) 47°44.07′ N. lat., 125°04.28′ W. long.;

(48) 47°43.32′ N. lat., 125°04.41′ W. long.;

(49) 47°40.95′ N. lat., 125°04.14′ W. long.;

(50) 47°39.58′ N. lat., 125°04.97′ W. long.;

(51) 47°36.23′ N. lat., 125°02.77′ W. long.;

(52) 47°34.28′ N. lat., 124°58.66′ W. long.;

(53) 47°32.17′ N. lat., 124°57.77′ W. long.;

(54) 47°30.27′ N. lat., 124°56.16′ W. long.;

(55) 47°30.60′ N. lat., 124°54.80′ W. long.;

(56) 47°29.26′ N. lat., 124°52.21′ W. long.;

(57) 47°28.21′ N. lat., 124°50.65′ W. long.;

(58) 47°27.38′ N. lat., 124°49.34′ W. long.;

(59) 47°25.61′ N. lat., 124°48.26′ W. long.;

(60) 47°23.54′ N. lat., 124°46.42′ W. long.;

(61) 47°20.64′ N. lat., 124°45.91′ W. long.;

(62) 47°17.99′ N. lat., 124°45.59′ W. long.;

(63) 47°18.20′ N. lat., 124°49.12′ W. long.;

(64) 47°15.01′ N. lat., 124°51.09′ W. long.;

(65) 47°12.61′ N. lat., 124°54.89′ W. long.;

(66) 47°08.22′ N. lat., 124°56.53′ W. long.;

(67) 47°08.50′ N. lat., 124°57.74′ W. long.;

(68) 47°01.92′ N. lat., 124°54.95′ W. long.;

(69) 47°01.08′ N. lat., 124°59.22′ W. long.;

(70) 46°58.48′ N. lat., 124°57.81′ W. long.;

(71) 46°56.79′ N. lat., 124°56.03′ W. long.;

(72) 46°58.01′ N. lat., 124°55.09′ W. long.;

(73) 46°55.07′ N. lat., 124°54.14′ W. long.;

(74) 46°59.60′ N. lat., 124°49.79′ W. long.;

(75) 46°58.72′ N. lat., 124°48.78′ W. long.;

(76) 46°54.45′ N. lat., 124°48.36′ W. long.;

(77) 46°53.99′ N. lat., 124°49.95′ W. long.;

(78) 46°54.38′ N. lat., 124°52.73′ W. long.;

(79) 46°52.38′ N. lat., 124°52.02′ W. long.;

(80) 46°48.93′ N. lat., 124°49.17′ W. long.;

(81) 46°41.50′ N. lat., 124°43.00′ W. long.;

(82) 46°34.50′ N. lat., 124°28.50′ W. long.;

(83) 46°29.00′ N. lat., 124°30.00′ W. long.;

(84) 46°20.00′ N. lat., 124°36.50′ W. long.;

(85) 46°18.40′ N. lat., 124°37.70′ W. long.;

(86) 46°18.03′ N. lat., 124°35.46′ W. long.;

(87) 46°17.00′ N. lat., 124°22.50′ W. long.;

(88) 46°16.00′ N. lat., 124°20.62′ W. long.;

(89) 46°13.52′ N. lat., 124°25.49′ W. long.;

(90) 46°12.17′ N. lat., 124°30.74′ W. long.;

(91) 46°10.63′ N. lat., 124°37.96′ W. long.;

(92) 46°09.29′ N. lat., 124°39.01′ W. long.;

(93) 46°02.40′ N. lat., 124°40.37′ W. long.;

(94) 45°56.45′ N. lat., 124°38.00′ W. long.;

(95) 45°51.92′ N. lat., 124°38.50′ W. long.;

(96) 45°47.20′ N. lat., 124°35.58′ W. long.;

(97) 45°46.40′ N. lat., 124°32.36′ W. long.;

(98) 45°46.00′ N. lat., 124°32.10′ W. long.;

(99) 45°41.75′ N. lat., 124°28.12′ W. long.;

(100) 45°36.95′ N. lat., 124°24.47′ W. long.;

(101) 45°31.84′ N. lat., 124°22.04′ W. long.;

(102) 45°27.10′ N. lat., 124°21.74′ W. long.;

(103) 45°20.25′ N. lat., 124°18.54′ W. long.;

(104) 45°18.14′ N. lat., 124°17.59′ W. long.;

(105) 45°11.08′ N. lat., 124°16.97′ W. long.;

(106) 45°04.39′ N. lat., 124°18.35′ W. long.;

(107) 45°03.83′ N. lat., 124°18.60′ W. long.;

(108) 44°58.05′ N. lat., 124°21.58′ W. long.;

(109) 44°47.67′ N. lat., 124°31.41′ W. long.;

(110) 44°44.54′ N. lat., 124°33.58′ W. long.;

(111) 44°39.88′ N. lat., 124°35.00′ W. long.;

(112) 44°32.90′ N. lat., 124°36.81′ W. long.;

(113) 44°30.34′ N. lat., 124°38.56′ W. long.;

(114) 44°30.04′ N. lat., 124°42.31′ W. long.;

(115) 44°26.84′ N. lat., 124°44.91′ W. long.;

(116) 44°17.99′ N. lat., 124°51.04′ W. long.;

(117) 44°12.92′ N. lat., 124°56.28′ W. long.;

(118) 44°00.14′ N. lat., 124°55.25′ W. long.;

(119) 43°57.68′ N. lat., 124°55.48′ W. long.;

(120) 43°56.66′ N. lat., 124°55.45′ W. long.;

(121) 43°56.47′ N. lat., 124°34.61′ W. long.;

(122) 43°42.73′ N. lat., 124°32.41′ W. long.;

(123) 43°30.92′ N. lat., 124°34.43′ W. long.;

(124) 43°20.83′ N. lat., 124°39.39′ W. long.;

(125) 43°17.45′ N. lat., 124°41.16′ W. long.;

(126) 43°07.04′ N. lat., 124°41.25′ W. long.;

(127) 43°03.45′ N. lat., 124°44.36′ W. long.;

(128) 43°03.91′ N. lat., 124°50.81′ W. long.;

(129) 42°55.70′ N. lat., 124°52.79′ W. long.;

(130) 42°54.12′ N. lat., 124°47.36′ W. long.;

(131) 42°50.00′ N. lat., 124°45.33′ W. long.;

(132) 42°44.00′ N. lat., 124°42.38′ W. long.;

(133) 42°40.50′ N. lat., 124°41.71′ W. long.;

(134) 42°38.23′ N. lat., 124°41.25′ W. long.;

(135) 42°33.02′ N. lat., 124°42.38′ W. long.;
(136) 42°31.90′ N. lat., 124°42.04′ W. long.;
(137) 42°30.08′ N. lat., 124°42.67′ W. long.;
(138) 42°28.28′ N. lat., 124°47.08′ W. long.;
(139) 42°25.22′ N. lat., 124°43.51′ W. long.;
(140) 42°19.23′ N. lat., 124°37.91′ W. long.;
(141) 42°16.29′ N. lat., 124°36.11′ W. long.;
(142) 42°13.67′ N. lat., 124°35.81′ W. long.;
(143) 42°05.66′ N. lat., 124°34.92′ W. long.;
(144) 42°00.00′ N. lat., 124°35.27′ W. long.;
(145) 41°47.04′ N. lat., 124°27.64′ W. long.;
(146) 41°32.92′ N. lat., 124°28.79′ W. long.;
(147) 41°24.17′ N. lat., 124°28.46′ W. long.;
(148) 41°10.12′ N. lat., 124°20.50′ W. long.;
(149) 40°51.41′ N. lat., 124°24.38′ W. long.;
(150) 40°43.71′ N. lat., 124°29.89′ W. long.;
(151) 40°40.14′ N. lat., 124°30.90′ W. long.;
(152) 40°37.35′ N. lat., 124°29.05′ W. long.;
(153) 40°34.76′ N. lat., 124°29.82′ W. long.;
(154) 40°36.78′ N. lat., 124°37.06′ W. long.;
(155) 40°32.44′ N. lat., 124°39.58′ W. long.;
(156) 40°30.00′ N. lat., 124°38.13′ W. long.;
(157) 40°24.82′ N. lat., 124°35.12′ W. long.;
(158) 40°23.30′ N. lat., 124°31.60′ W. long.;
(159) 40°23.52′ N. lat., 124°28.78′ W. long.;
(160) 40°22.43′ N. lat., 124°25.00′ W. long.;
(161) 40°21.72′ N. lat., 124°24.94′ W. long.;
(162) 40°21.87′ N. lat., 124°27.96′ W. long.;
(163) 40°21.40′ N. lat., 124°28.74′ W. long.;
(164) 40°19.68′ N. lat., 124°28.49′ W. long.;
(165) 40°17.73′ N. lat., 124°25.43′ W. long.;
(166) 40°18.37′ N. lat., 124°23.35′ W. long.;
(167) 40°15.75′ N. lat., 124°26.05′ W. long.;
(168) 40°16.75′ N. lat., 124°33.71′ W. long.;
(169) 40°16.29′ N. lat., 124°34.36′ W. long.;
(170) 40°10.00′ N. lat., 124°21.12′ W. long.;
(171) 40°07.70′ N. lat., 124°18.44′ W. long.;
(172) 40°08.84′ N. lat., 124°15.86′ W. long.;
(173) 40°06.53′ N. lat., 124°17.39′ W. long.;
(174) 40°03.15′ N. lat., 124°14.43′ W. long.;
(175) 40°02.19′ N. lat., 124°12.85′ W. long.;
(176) 40°02.89′ N. lat., 124°11.78′ W. long.;
(177) 40°02.78′ N. lat., 124°10.70′ W. long.;
(178) 40°04.57′ N. lat., 124°10.08′ W. long.;
(179) 40°06.06′ N. lat., 124°08.30′ W. long.;
(180) 40°04.05′ N. lat., 124°08.93′ W. long.;
(181) 40°01.17′ N. lat., 124°08.80′ W. long.;
(182) 40°01.03′ N. lat., 124°10.06′ W. long.;
(183) 39°58.07′ N. lat., 124°11.89′ W. long.;
(184) 39°56.39′ N. lat., 124°08.71′ W. long.;
(185) 39°54.64′ N. lat., 124°07.30′ W. long.;
(186) 39°53.86′ N. lat., 124°07.95′ W. long.;
(187) 39°51.95′ N. lat., 124°07.63′ W. long.;
(188) 39°48.78′ N. lat., 124°03.29′ W. long.;
(189) 39°47.36′ N. lat., 124°03.31′ W. long.;
(190) 39°40.08′ N. lat., 123°58.37′ W. long.;
(191) 39°36.16′ N. lat., 123°56.90′ W. long.;
(192) 39°30.75′ N. lat., 123°55.86′ W. long.;
(193) 39°31.62′ N. lat., 123°57.33′ W. long.;
(194) 39°30.91′ N. lat., 123°57.88′ W. long.;
(195) 39°01.79′ N. lat., 123°56.59′ W. long.;
(196) 38°59.42′ N. lat., 123°55.67′ W. long.;
(197) 38°58.89′ N. lat., 123°56.28′ W. long.;
(198) 38°57.50′ N. lat., 123°56.28′ W. long.;
(199) 38°54.72′ N. lat., 123°55.68′ W. long.;
(200) 38°48.95′ N. lat., 123°51.85′ W. long.;
(201) 38°36.67′ N. lat., 123°40.20′ W. long.;
(202) 38°33.82′ N. lat., 123°39.23′ W. long.;
(203) 38°29.02′ N. lat., 123°33.52′ W. long.;
(204) 38°18.88′ N. lat., 123°25.93′ W. long.;
(205) 38°14.12′ N. lat., 123°23.26′ W. long.;
(206) 38°11.07′ N. lat., 123°22.07′ W. long.;
(207) 38°03.18′ N. lat., 123°20.77′ W. long.;
(208) 38°00.00′ N. lat., 123°23.08′ W. long.;
(209) 37°55.07′ N. lat., 123°26.81′ W. long.;
(210) 37°50.66′ N. lat., 123°23.06′ W. long.;
(211) 37°45.18′ N. lat., 123°11.88′ W. long.;
(212) 37°35.67′ N. lat., 123°01.20′ W. long.;
(213) 37°26.81′ N. lat., 122°55.57′ W. long.;
(214) 37°26.78′ N. lat., 122°53.91′ W. long.;
(215) 37°25.74′ N. lat., 122°54.13′ W. long.;
(216) 37°25.33′ N. lat., 122°53.59′ W. long.;
(217) 37°25.29′ N. lat., 122°52.57′ W. long.;
(218) 37°24.50′ N. lat., 122°52.09′ W. long.;
(219) 37°23.25′ N. lat., 122°53.12′ W. long.;
(220) 37°15.58′ N. lat., 122°48.36′ W. long.;
(221) 37°11.00′ N. lat., 122°44.50′ W. long.;
(222) 37°07.00′ N. lat., 122°41.25′ W. long.;
(223) 37°03.18′ N. lat., 122°38.15′ W. long.;
(224) 37°00.48′ N. lat., 122°33.93′ W. long.;
(225) 36°58.70′ N. lat., 122°27.22′ W. long.;
(226) 37°00.85′ N. lat., 122°24.70′ W. long.;
(227) 36°58.00′ N. lat., 122°24.14′ W. long.;
(228) 36°58.74′ N. lat., 122°21.51′ W. long.;
(229) 36°56.97′ N. lat., 122°21.32′ W. long.;
(230) 36°51.52′ N. lat., 122°10.68′ W. long.;
(231) 36°48.39′ N. lat., 122°07.60′ W. long.;
(232) 36°47.43′ N. lat., 122°03.22′ W. long.;
(233) 36°50.95′ N. lat., 121°58.03′ W. long.;
(234) 36°49.92′ N. lat., 121°58.01′ W. long.;
(235) 36°48.88′ N. lat., 121°58.90′ W. long.;
(236) 36°47.70′ N. lat., 121°58.75′ W. long.;
(237) 36°48.37′ N. lat., 121°51.14′ W. long.;
(238) 36°45.74′ N. lat., 121°54.17′ W. long.;
(239) 36°45.51′ N. lat., 121°57.72′ W. long.;

(240) 36°38.84′ N. lat., 122°01.32′ W. long.;
(241) 36°35.62′ N. lat., 122°00.98′ W. long.;
(242) 36°32.46′ N. lat., 121°59.15′ W. long.;
(243) 36°32.79′ N. lat., 121°57.67′ W. long.;
(244) 36°31.98′ N. lat., 121°56.55′ W. long.;
(245) 36°31.79′ N. lat., 121°58.40′ W. long.;
(246) 36°30.73′ N. lat., 121°59.70′ W. long.;
(247) 36°30.31′ N. lat., 122°00.22′ W. long.;
(248) 36°29.35′ N. lat., 122°00.36′ W. long.;
(249) 36°27.66′ N. lat., 121°59.80′ W. long.;
(250) 36°26.22′ N. lat., 121°58.35′ W. long.;
(251) 36°21.20′ N. lat., 122°00.72′ W. long.;
(252) 36°20.47′ N. lat., 122°02.92′ W. long.;
(253) 36°18.46′ N. lat., 122°04.51′ W. long.;
(254) 36°15.92′ N. lat., 122°01.33′ W. long.;
(255) 36°13.76′ N. lat., 121°57.27′ W. long.;
(256) 36°14.43′ N. lat., 121°55.43′ W. long.;
(257) 36°10.24′ N. lat., 121°43.08′ W. long.;
(258) 36°07.66′ N. lat., 121°40.91′ W. long.;
(259) 36°02.49′ N. lat., 121°36.51′ W. long.;
(260) 36°01.08′ N. lat., 121°36.63′ W. long.;
(261) 36°00.00′ N. lat., 121°35.41′ W. long.;
(262) 35°57.84′ N. lat., 121°32.81′ W. long.;
(263) 35°50.36′ N. lat., 121°29.32′ W. long.;
(264) 35°39.03′ N. lat., 121°22.86′ W. long.;
(265) 35°24.30′ N. lat., 121°02.56′ W. long.;
(266) 35°16.53′ N. lat., 121°00.39′ W. long.;
(267) 35°04.82′ N. lat., 120°53.96′ W. long.;
(268) 34°52.51′ N. lat., 120°51.62′ W. long.;
(269) 34°43.36′ N. lat., 120°52.12′ W. long.;
(270) 34°37.64′ N. lat., 120°49.99′ W. long.;
(271) 34°30.80′ N. lat., 120°45.02′ W. long.;
(272) 34°27.00′ N. lat., 120°39.00′ W. long.;
(273) 34°21.90′ N. lat., 120°25.25′ W. long.;
(274) 34°24.86′ N. lat., 120°16.81′ W. long.;
(275) 34°22.80′ N. lat., 119°57.06′ W. long.;
(276) 34°18.59′ N. lat., 119°44.84′ W. long.;
(277) 34°15.04′ N. lat., 119°40.34′ W. long.;
(278) 34°14.40′ N. lat., 119°45.39′ W. long.;
(279) 34°12.32′ N. lat., 119°42.41′ W. long.;
(280) 34°09.71′ N. lat., 119°28.85′ W. long.;
(281) 34°04.70′ N. lat., 119°15.38′ W. long.;
(282) 34°03.33′ N. lat., 119°12.93′ W. long.;
(283) 34°02.72′ N. lat., 119°07.01′ W. long.;
(284) 34°03.90′ N. lat., 119°04.64′ W. long.;
(285) 34°01.80′ N. lat., 119°03.23′ W. long.;
(286) 33°59.32′ N. lat., 119°03.50′ W. long.;
(287) 33°59.00′ N. lat., 118°59.55′ W. long.;
(288) 33°59.51′ N. lat., 118°57.25′ W. long.;
(289) 33°58.82′ N. lat., 118°52.47′ W. long.;
(290) 33°58.54′ N. lat., 118°41.86′ W. long.;
(291) 33°55.07′ N. lat., 118°34.25′ W. long.;
(292) 33°54.28′ N. lat., 118°38.68′ W. long.;
(293) 33°51.00′ N. lat., 118°36.66′ W. long.;
(294) 33°39.77′ N. lat., 118°18.41′ W. long.;
(295) 33°35.50′ N. lat., 118°16.85′ W. long.;
(296) 33°32.68′ N. lat., 118°09.82′ W. long.;
(297) 33°34.09′ N. lat., 117°54.06′ W. long.;
(298) 33°31.60′ N. lat., 117°49.28′ W. long.;
(299) 33°16.07′ N. lat., 117°34.74′ W. long.;
(300) 33°07.06′ N. lat., 117°22.71′ W. long.;
(301) 32°59.28′ N. lat., 117°19.69′ W. long.;
(302) 32°55.36′ N. lat., 117°19.54′ W. long.;
(303) 32°53.35′ N. lat., 117°17.05′ W. long.;
(304) 32°53.36′ N. lat., 117°19.97′ W. long.;
(305) 32°46.39′ N. lat., 117°23.45′ W. long.;
(306) 32°42.79′ N. lat., 117°21.16′ W. long.; and
(307) 32°34.22′ N. lat., 117°21.20′ W. long.

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(h) * * *

(1) 48°14.96′ N. lat., 125°41.24′ W. long.;
(2) 48°12.89′ N. lat., 125°37.83′ W. long.;
(3) 48°11.49′ N. lat., 125°39.27′ W. long.;
(4) 48°10.00′ N. lat., 125°40.65′ W. long.;
(5) 48°08.72′ N. lat., 125°41.84′ W. long.;
(6) 48°07.00′ N. lat., 125°45.00′ W. long.;
(7) 48°06.13′ N. lat., 125°41.57′ W. long.;
(8) 48°05.00′ N. lat., 125°39.00′ W. long.;
(9) 48°04.15′ N. lat., 125°36.71′ W. long.;
(10) 48°03.00′ N. lat., 125°36.00′ W. long.;
(11) 48°01.65′ N. lat., 125°36.96′ W. long.;
(12) 48°01.00′ N. lat., 125°38.50′ W. long.;
(13) 47°57.50′ N. lat., 125°36.50′ W. long.;
(14) 47°56.53′ N. lat., 125°30.33′ W. long.;
(15) 47°57.28′ N. lat., 125°27.89′ W. long.;
(16) 47°59.00′ N. lat., 125°25.50′ W. long.;
(17) 48°01.77′ N. lat., 125°24.05′ W. long.;
(18) 48°02.08′ N. lat., 125°22.98′ W. long.;
(19) 48°03.00′ N. lat., 125°22.50′ W. long.;
(20) 48°03.46′ N. lat., 125°22.10′ W. long.;
(21) 48°04.29′ N. lat., 125°20.37′ W. long.;
(22) 48°02.00′ N. lat., 125°18.50′ W. long.;
(23) 48°00.01′ N. lat., 125°19.90′ W. long.;
(24) 47°58.75′ N. lat., 125°17.54′ W. long.;
(25) 47°53.50′ N. lat., 125°13.50′ W. long.;
(26) 47°48.88′ N. lat., 125°05.91′ W. long.;
(27) 47°48.50′ N. lat., 125°05.00′ W. long.;
(28) 47°45.98′ N. lat., 125°04.26′ W. long.;
(29) 47°45.00′ N. lat., 125°05.50′ W. long.;
(30) 47°42.11′ N. lat., 125°04.74′ W. long.;
(31) 47°39.00′ N. lat., 125°06.00′ W. long.;
(32) 47°35.53′ N. lat., 125°04.55′ W. long.;
(33) 47°30.90′ N. lat., 124°57.31′ W. long.;
(34) 47°29.54′ N. lat., 124°56.50′ W. long.;
(35) 47°29.50′ N. lat., 124°54.50′ W. long.;

(36) 47°28.57′ N. lat., 124°51.50′ W. long.;
(37) 47°25.00′ N. lat., 124°48.00′ W. long.;
(38) 47°23.95′ N. lat., 124°47.24′ W. long.;
(39) 47°23.00′ N. lat., 124°47.00′ W. long.;
(40) 47°21.00′ N. lat., 124°46.50′ W. long.;
(41) 47°18.20′ N. lat., 124°45.84′ W. long.;
(42) 47°18.50′ N. lat., 124°49.00′ W. long.;
(43) 47°19.17′ N. lat., 124°50.86′ W. long.;
(44) 47°18.07′ N. lat., 124°53.29′ W. long.;
(45) 47°17.78′ N. lat., 124°51.39′ W. long.;
(46) 47°16.81′ N. lat., 124°50.85′ W. long.;
(47) 47°15.96′ N. lat., 124°53.15′ W. long.;
(48) 47°14.31′ N. lat., 124°52.62′ W. long.;
(49) 47°11.87′ N. lat., 124°56.90′ W. long.;
(50) 47°12.39′ N. lat., 124°58.09′ W. long.;
(51) 47°09.50′ N. lat., 124°57.50′ W. long.;
(52) 47°09.00′ N. lat., 124°59.00′ W. long.;
(53) 47°06.06′ N. lat., 124°58.80′ W. long.;
(54) 47°03.62′ N. lat., 124°55.96′ W. long.;
(55) 47°02.89′ N. lat., 124°56.89′ W. long.;
(56) 47°01.04′ N. lat., 124°59.54′ W. long.;
(57) 46°58.47′ N. lat., 124°59.08′ W. long.;
(58) 46°58.29′ N. lat., 125°00.28′ W. long.;
(59) 46°56.30′ N. lat., 125°00.75′ W. long.;
(60) 46°57.09′ N. lat., 124°58.86′ W. long.;
(61) 46°55.95′ N. lat., 124°54.88′ W. long.;
(62) 46°54.79′ N. lat., 124°54.14′ W. long.;
(63) 46°58.00′ N. lat., 124°50.00′ W. long.;
(64) 46°54.50′ N. lat., 124°49.00′ W. long.;
(65) 46°54.53′ N. lat., 124°52.94′ W. long.;
(66) 46°49.52′ N. lat., 124°53.41′ W. long.;
(67) 46°42.24′ N. lat., 124°47.86′ W. long.;
(68) 46°39.50′ N. lat., 124°42.50′ W. long.;
(69) 46°38.17′ N. lat., 124°41.50′ W. long.;
(70) 46°37.50′ N. lat., 124°41.00′ W. long.;
(71) 46°36.50′ N. lat., 124°38.00′ W. long.;
(72) 46°33.85′ N. lat., 124°36.99′ W. long.;
(73) 46°33.50′ N. lat., 124°29.50′ W. long.;
(74) 46°32.00′ N. lat., 124°31.00′ W. long.;
(75) 46°30.53′ N. lat., 124°30.55′ W. long.;
(76) 46°25.50′ N. lat., 124°33.00′ W. long.;
(77) 46°23.00′ N. lat., 124°35.00′ W. long.;
(78) 46°21.05′ N. lat., 124°37.00′ W. long.;
(79) 46°20.64′ N. lat., 124°36.21′ W. long.;
(80) 46°20.36′ N. lat., 124°37.85′ W. long.;
(81) 46°19.48′ N. lat., 124°38.35′ W. long.;
(82) 46°17.87′ N. lat., 124°38.54′ W. long.;
(83) 46°16.15′ N. lat., 124°25.20′ W. long.;
(84) 46°16.00′ N. lat., 124°23.00′ W. long.;
(85) 46°14.87′ N. lat., 124°26.15′ W. long.;
(86) 46°13.37′ N. lat., 124°31.36′ W. long.;
(87) 46°12.08′ N. lat., 124°38.39′ W. long.;
(88) 46°09.46′ N. lat., 124°40.64′ W. long.;
(89) 46°07.29′ N. lat., 124°40.89′ W. long.;
(90) 46°02.76′ N. lat., 124°44.01′ W. long.;
(91) 46°01.22′ N. lat., 124°43.47′ W. long.;
(92) 45°51.82′ N. lat., 124°42.89′ W. long.;
(93) 45°46.00′ N. lat., 124°40.88′ W. long.;
(94) 45°45.95′ N. lat., 124°40.72′ W. long.;
(95) 45°44.11′ N. lat., 124°43.09′ W. long.;
(96) 45°34.50′ N. lat., 124°30.28′ W. long.;
(97) 45°21.10′ N. lat., 124°23.11′ W. long.;
(98) 45°20.25′ N. lat., 124°22.92′ W. long.;
(99) 45°09.69′ N. lat., 124°20.45′ W. long.;
(100) 45°03.83′ N. lat., 124°23.30′ W. long.;
(101) 44°56.41′ N. lat., 124°27.65′ W. long.;
(102) 44°44.47′ N. lat., 124°37.85′ W. long.;
(103) 44°37.17′ N. lat., 124°38.60′ W. long.;
(104) 44°35.55′ N. lat., 124°39.27′ W. long.;
(105) 44°31.81′ N. lat., 124°39.60′ W. long.;
(106) 44°31.48′ N. lat., 124°43.30′ W. long.;
(107) 44°12.67′ N. lat., 124°57.87′ W. long.;
(108) 44°08.30′ N. lat., 124°57.84′ W. long.;
(109) 44°07.38′ N. lat., 124°57.87′ W. long.;
(110) 43°57.42′ N. lat., 124°57.20′ W. long.;
(111) 43°52.52′ N. lat., 124°49.00′ W. long.;
(112) 43°51.55′ N. lat., 124°37.49′ W. long.;
(113) 43°47.83′ N. lat., 124°36.43′ W. long.;
(114) 43°31.79′ N. lat., 124°36.80′ W. long.;
(115) 43°29.34′ N. lat., 124°36.77′ W. long.;
(116) 43°26.37′ N. lat., 124°39.53′ W. long.;
(117) 43°20.83′ N. lat., 124°42.39′ W. long.;
(118) 43°16.15′ N. lat., 124°44.36′ W. long.;
(119) 43°09.33′ N. lat., 124°45.35′ W. long.;
(120) 43°08.77′ N. lat., 124°49.82′ W. long.;
(121) 43°08.83′ N. lat., 124°50.93′ W. long.;
(122) 43°05.89′ N. lat., 124°51.60′ W. long.;
(123) 43°04.60′ N. lat., 124°53.02′ W. long.;
(124) 43°02.64′ N. lat., 124°52.01′ W. long.;
(125) 43°00.39′ N. lat., 124°51.77′ W. long.;
(126) 42°58.00′ N. lat., 124°52.99′ W. long.;
(127) 42°57.56′ N. lat., 124°54.10′ W. long.;
(128) 42°53.82′ N. lat., 124°55.76′ W. long.;
(129) 42°52.31′ N. lat., 124°50.76′ W. long.;
(130) 42°50.00′ N. lat., 124°48.97′ W. long.;
(131) 42°47.78′ N. lat., 124°47.27′ W. long.;
(132) 42°46.31′ N. lat., 124°43.60′ W. long.;
(133) 42°41.63′ N. lat., 124°44.07′ W. long.;
(134) 42°40.50′ N. lat., 124°43.52′ W. long.;
(135) 42°38.83′ N. lat., 124°42.77′ W. long.;
(136) 42°35.36′ N. lat., 124°43.22′ W. long.;
(137) 42°32.78′ N. lat., 124°44.68′ W. long.;
(138) 42°32.02′ N. lat., 124°43.00′ W. long.;
(139) 42°30.54′ N. lat., 124°43.50′ W. long.;
(140) 42°28.16′ N. lat., 124°48.38′ W. long.;

(141) 42°18.26′ N. lat., 124°39.01′ W. long.;
(142) 42°13.66′ N. lat., 124°36.82′ W. long.;
(143) 42°00.00′ N. lat., 124°35.99′ W. long.;
(144) 41°47.80′ N. lat., 124°29.41′ W. long.;
(145) 41°23.51′ N. lat., 124°29.50′ W. long.;
(146) 41°13.29′ N. lat., 124°23.31′ W. long.;
(147) 41°06.23′ N. lat., 124°22.62′ W. long.;
(148) 40°55.60′ N. lat., 124°26.04′ W. long.;
(149) 40°49.62′ N. lat., 124°26.57′ W. long.;
(150) 40°45.72′ N. lat., 124°30.00′ W. long.;
(151) 40°40.56′ N. lat., 124°32.11′ W. long.;
(152) 40°37.33′ N. lat., 124°29.27′ W. long.;
(153) 40°35.60′ N. lat., 124°30.49′ W. long.;
(154) 40°37.38′ N. lat., 124°37.14′ W. long.;
(155) 40°36.03′ N. lat., 124°39.97′ W. long.;
(156) 40°31.58′ N. lat., 124°40.74′ W. long.;
(157) 40°30.00′ N. lat., 124°38.50′ W. long.;
(158) 40°29.76′ N. lat., 124°38.13′ W. long.;
(159) 40°28.22′ N. lat., 124°37.23′ W. long.;
(160) 40°24.86′ N. lat., 124°35.71′ W. long.;
(161) 40°23.01′ N. lat., 124°31.94′ W. long.;
(162) 40°23.39′ N. lat., 124°28.64′ W. long.;
(163) 40°22.29′ N. lat., 124°25.25′ W. long.;
(164) 40°21.90′ N. lat., 124°25.18′ W. long.;
(165) 40°22.02′ N. lat., 124°28.00′ W. long.;
(166) 40°21.34′ N. lat., 124°29.53′ W. long.;
(167) 40°19.74′ N. lat., 124°28.95′ W. long.;
(168) 40°18.13′ N. lat., 124°27.08′ W. long.;
(169) 40°17.45′ N. lat., 124°25.53′ W. long.;
(170) 40°17.97′ N. lat., 124°24.12′ W. long.;
(171) 40°15.96′ N. lat., 124°26.05′ W. long.;
(172) 40°17.00′ N. lat., 124°35.01′ W. long.;
(173) 40°15.97′ N. lat., 124°35.90′ W. long.;
(174) 40°10.00′ N. lat., 124°22.96′ W. long.;
(175) 40°07.00′ N. lat., 124°19.00′ W. long.;
(176) 40°08.10′ N. lat., 124°16.70′ W. long.;
(177) 40°05.90′ N. lat., 124°17.77′ W. long.;
(178) 40°02.99′ N. lat., 124°15.55′ W. long.;
(179) 40°02.00′ N. lat., 124°12.97′ W. long.;
(180) 40°02.60′ N. lat., 124°10.61′ W. long.;
(181) 40°03.63′ N. lat., 124°09.12′ W. long.;
(182) 40°02.18′ N. lat., 124°09.07′ W. long.;
(183) 39°58.25′ N. lat., 124°12.56′ W. long.;
(184) 39°57.03′ N. lat., 124°11.34′ W. long.;
(185) 39°56.30′ N. lat., 124°08.96′ W. long.;
(186) 39°54.82′ N. lat., 124°07.66′ W. long.;
(187) 39°52.57′ N. lat., 124°08.55′ W. long.;
(188) 39°45.34′ N. lat., 124°03.30′ W. long.;
(189) 39°39.82′ N. lat., 123°59.98′ W. long.;
(190) 39°34.59′ N. lat., 123°58.08′ W. long.;
(191) 39°34.22′ N. lat., 123°56.82′ W. long.;
(192) 39°32.98′ N. lat., 123°56.43′ W. long.;
(193) 39°31.47′ N. lat., 123°58.73′ W. long.;
(194) 39°05.68′ N. lat., 123°57.81′ W. long.;
(195) 39°00.24′ N. lat., 123°56.74′ W. long.;
(196) 38°57.50′ N. lat., 123°56.74′ W. long.;
(197) 38°54.31′ N. lat., 123°56.73′ W. long.;
(198) 38°41.42′ N. lat., 123°46.75′ W. long.;
(199) 38°39.61′ N. lat., 123°46.48′ W. long.;
(200) 38°37.52′ N. lat., 123°43.78′ W. long.;
(201) 38°35.25′ N. lat., 123°42.00′ W. long.;
(202) 38°28.79′ N. lat., 123°37.07′ W. long.;
(203) 38°18.75′ N. lat., 123°31.21′ W. long.;
(204) 38°14.43′ N. lat., 123°25.56′ W. long.;
(205) 38°08.75′ N. lat., 123°24.48′ W. long.;
(206) 38°10.10′ N. lat., 123°27.20′ W. long.;
(207) 38°07.16′ N. lat., 123°28.18′ W. long.;
(208) 38°06.15′ N. lat., 123°30.00′ W. long.;
(209) 38°04.28′ N. lat., 123°31.70′ W. long.;
(210) 38°01.88′ N. lat., 123°30.98′ W. long.;
(211) 38°00.75′ N. lat., 123°29.72′ W. long.;
(212) 38°00.00′ N. lat., 123°28.60′ W. long.;
(213) 37°58.23′ N. lat., 123°26.90′ W. long.;
(214) 37°55.32′ N. lat., 123°27.19′ W. long.;
(215) 37°51.47′ N. lat., 123°24.92′ W. long.;
(216) 37°44.47′ N. lat., 123°11.57′ W. long.;
(217) 37°35.67′ N. lat., 123°01.76′ W. long.;
(218) 37°26.10′ N. lat., 122°57.07′ W. long.;
(219) 37°26.51′ N. lat., 122°54.23′ W. long.;
(220) 37°25.05′ N. lat., 122°55.64′ W. long.;
(221) 37°24.42′ N. lat., 122°54.94′ W. long.;
(222) 37°25.16′ N. lat., 122°52.73′ W. long.;
(223) 37°24.55′ N. lat., 122°52.48′ W. long.;
(224) 37°22.81′ N. lat., 122°54.36′ W. long.;
(225) 37°19.87′ N. lat., 122°53.98′ W. long.;
(226) 37°15.16′ N. lat., 122°51.64′ W. long.;
(227) 37°11.00′ N. lat., 122°47.20′ W. long.;
(228) 37°07.00′ N. lat., 122°42.90′ W. long.;
(229) 37°01.68′ N. lat., 122°37.28′ W. long.;
(230) 36°59.70′ N. lat., 122°33.71′ W. long.;
(231) 36°58.00′ N. lat., 122°27.80′ W. long.;
(232) 37°00.25′ N. lat., 122°24.85′ W. long.;
(233) 36°57.50′ N. lat., 122°24.98′ W. long.;
(234) 36°58.38′ N. lat., 122°21.85′ W. long.;
(235) 36°55.85′ N. lat., 122°21.95′ W. long.;
(236) 36°52.02′ N. lat., 122°12.10′ W. long.;
(237) 36°47.63′ N. lat., 122°07.37′ W. long.;
(238) 36°47.26′ N. lat., 122°03.22′ W. long.;
(239) 36°50.34′ N. lat., 121°58.40′ W. long.;
(240) 36°48.83′ N. lat., 121°59.14′ W. long.;
(241) 36°44.81′ N. lat., 121°58.28′ W. long.;
(242) 36°39.00′ N. lat., 122°01.71′ W. long.;
(243) 36°29.60′ N. lat., 122°00.49′ W. long.;
(244) 36°23.43′ N. lat., 121°59.76′ W. long.;
(245) 36°18.90′ N. lat., 122°05.32′ W. long.;

(246) 36°15.38′ N. lat., 122°01.40′ W. long.;
(247) 36°13.79′ N. lat., 121°58.12′ W. long.;
(248) 36°10.12′ N. lat., 121°43.33′ W. long.;
(249) 36°02.57′ N. lat., 121°37.02′ W. long.;
(250) 36°01.01′ N. lat., 121°36.69′ W. long.;
(251) 36°00.00′ N. lat., 121°35.45′ W. long.;
(252) 35°57.74′ N. lat., 121°33.45′ W. long.;
(253) 35°51.32′ N. lat., 121°30.08′ W. long.;
(254) 35°45.84′ N. lat., 121°28.84′ W. long.;
(255) 35°38.94′ N. lat., 121°23.16′ W. long.;
(256) 35°26.00′ N. lat., 121°08.00′ W. long.;
(257) 35°07.42′ N. lat., 120°57.08′ W. long.;
(258) 34°42.76′ N. lat., 120°55.09′ W. long.;
(259) 34°37.75′ N. lat., 120°51.96′ W. long.;
(260) 34°29.29′ N. lat., 120°44.19′ W. long.;
(261) 34°27.00′ N. lat., 120°40.42′ W. long.;
(262) 34°21.89′ N. lat., 120°31.36′ W. long.;
(263) 34°20.79′ N. lat., 120°21.58′ W. long.;
(264) 34°23.97′ N. lat., 120°15.25′ W. long.;
(265) 34°22.11′ N. lat., 119°56.63′ W. long.;
(266) 34°19.00′ N. lat., 119°48.00′ W. long.;
(267) 34°15.00′ N. lat., 119°48.00′ W. long.;
(268) 34°08.00′ N. lat., 119°37.00′ W. long.;
(269) 34°08.39′ N. lat., 119°54.78′ W. long.;
(270) 34°07.10′ N. lat., 120°10.37′ W. long.;
(271) 34°10.08′ N. lat., 120°22.98′ W. long.;
(272) 34°13.16′ N. lat., 120°29.40′ W. long.;
(273) 34°09.41′ N. lat., 120°37.75′ W. long.;
(274) 34°03.15′ N. lat., 120°34.71′ W. long.;
(275) 33°57.09′ N. lat., 120°27.76′ W. long.;
(276) 33°51.00′ N. lat., 120°09.00′ W. long.;
(277) 33°38.16′ N. lat., 119°59.23′ W. long.;
(278) 33°37.04′ N. lat., 119°50.17′ W. long.;
(279) 33°42.28′ N. lat., 119°48.85′ W. long.;
(280) 33°53.96′ N. lat., 119°53.77′ W. long.;
(281) 33°55.88′ N. lat., 119°41.05′ W. long.;
(282) 33°59.94′ N. lat., 119°19.57′ W. long.;
(283) 34°03.12′ N. lat., 119°15.51′ W. long.;
(284) 34°01.97′ N. lat., 119°07.28′ W. long.;
(285) 34°03.60′ N. lat., 119°04.71′ W. long.;
(286) 33°59.30′ N. lat., 119°03.73′ W. long.;
(287) 33°58.87′ N. lat., 118°59.37′ W. long.;
(288) 33°58.08′ N. lat., 118°41.14′ W. long.;
(289) 33°50.93′ N. lat., 118°37.65′ W. long.;
(290) 33°39.54′ N. lat., 118°18.70′ W. long.;
(291) 33°35.42′ N. lat., 118°17.14′ W. long.;
(292) 33°32.15′ N. lat., 118°10.84′ W. long.;
(293) 33°33.71′ N. lat., 117°53.72′ W. long.;
(294) 33°31.17′ N. lat., 117°49.11′ W. long.;
(295) 33°16.53′ N. lat., 117°36.13′ W. long.;
(296) 33°06.77′ N. lat., 117°22.92′ W. long.;
(297) 32°58.94′ N. lat., 117°20.05′ W. long.;
(298) 32°55.83′ N. lat., 117°20.15′ W. long.;
(299) 32°46.29′ N. lat., 117°23.89′ W. long.;
(300) 32°42.00′ N. lat., 117°22.16′ W. long.;
(301) 32°39.47′ N. lat., 117°27.78′ W. long.; and
(302) 32°34.83′ N. lat., 117°24.69′ W. long.

* * * * *

■ 19. In § 660.394:
■ (a) Paragraphs (a)(1) through (281) are revised, and (a)(282) through (284) are added.
■ (b) Paragraphs (f)(90) through (128) are revised, and new paragraph (f)(129) is added.
■ (c) Paragraphs (g)(1) through (g)(254) are revised, and new paragraphs (g)(255) and (256) are added.
■ (d) Paragraphs (l)(1) through (241) are revised, and new paragraphs (l)(242) through (245) are added.
■ (e) Paragraphs (m)(1) through (199) are revised, and new paragraphs (m)(200) through (208) are added.
■ (f) Paragraphs (r)(1) through (223) are revised, and new paragraphs (r)(224) through (231) are added.

The revisions and additions read as follows:

§ 660.394 Latitude/longitude coordinates defining the 180-fm (329-m) through 250-fm (457-m) depth contours.

* * * * *

(a) * * *
(1) 48°14.82′ N. lat., 125°41.61′ W. long.;
(2) 48°12.86′ N. lat., 125°37.95′ W. long.;
(3) 48°11.28′ N. lat., 125°39.67′ W. long.;
(4) 48°10.13′ N. lat., 125°42.62′ W. long.;
(5) 48°10.00′ N. lat., 125°42.55′ W. long.;
(6) 48°08.86′ N. lat., 125°41.92′ W. long.;
(7) 48°08.15′ N. lat., 125°44.95′ W. long.;
(8) 48°07.18′ N. lat., 125°45.67′ W. long.;
(9) 48°05.79′ N. lat., 125°44.64′ W. long.;
(10) 48°06.04′ N. lat., 125°41.84′ W. long.;
(11) 48°04.26′ N. lat., 125°40.09′ W. long.;
(12) 48°04.18′ N. lat., 125°36.94′ W. long.;
(13) 48°03.02′ N. lat., 125°36.24′ W. long.;
(14) 48°01.75′ N. lat., 125°37.42′ W. long.;
(15) 48°01.39′ N. lat., 125°39.42′ W. long.;
(16) 47°57.08′ N. lat., 125°36.51′ W. long.;
(17) 47°55.20′ N. lat., 125°36.62′ W. long.;
(18) 47°54.33′ N. lat., 125°34.98′ W. long.;
(19) 47°54.73′ N. lat., 125°31.95′ W. long.;
(20) 47°56.39′ N. lat., 125°30.22′ W. long.;
(21) 47°55.86′ N. lat., 125°28.54′ W. long.;
(22) 47°58.07′ N. lat., 125°25.72′ W. long.;
(23) 48°00.81′ N. lat., 125°24.39′ W. long.;
(24) 48°01.81′ N. lat., 125°23.76′ W. long.;
(25) 48°02.16′ N. lat., 125°22.71′ W. long.;
(26) 48°03.46′ N. lat., 125°22.01′ W. long.;
(27) 48°04.21′ N. lat., 125°20.40′ W. long.;
(28) 48°03.15′ N. lat., 125°19.50′ W. long.;
(29) 48°01.92′ N. lat., 125°18.69′ W. long.;
(30) 48°00.85′ N. lat., 125°20.02′ W. long.;
(31) 48°00.12′ N. lat., 125°20.04′ W. long.;
(32) 47°58.18′ N. lat., 125°18.78′ W. long.;

(33) 47°58.24′ N. lat., 125°17.26′ W. long.;
(34) 47°52.47′ N. lat., 125°15.30′ W. long.;
(35) 47°52.13′ N. lat., 125°12.95′ W. long.;
(36) 47°50.60′ N. lat., 125°10.65′ W. long.;
(37) 47°49.39′ N. lat., 125°10.59′ W. long.;
(38) 47°48.74′ N. lat., 125°06.07′ W. long.;
(39) 47°47.03′ N. lat., 125°06.95′ W. long.;
(40) 47°47.46′ N. lat., 125°05.20′ W. long.;
(41) 47°45.88′ N. lat., 125°04.50′ W. long.;
(42) 47°44.51′ N. lat., 125°06.64′ W. long.;
(43) 47°42.22′ N. lat., 125°04.86′ W. long.;
(44) 47°38.49′ N. lat., 125°06.32′ W. long.;
(45) 47°34.93′ N. lat., 125°04.34′ W. long.;
(46) 47°30.85′ N. lat., 124°57.42′ W. long.;
(47) 47°28.80′ N. lat., 124°56.51′ W. long.;
(48) 47°29.25′ N. lat., 124°53.92′ W. long.;
(49) 47°28.29′ N. lat., 124°51.32′ W. long.;
(50) 47°24.04′ N. lat., 124°47.38′ W. long.;
(51) 47°18.24′ N. lat., 124°45.97′ W. long.;
(52) 47°19.36′ N. lat., 124°50.96′ W. long.;
(53) 47°18.07′ N. lat., 124°53.38′ W. long.;
(54) 47°17.73′ N. lat., 124°52.83′ W. long.;
(55) 47°17.77′ N. lat., 124°51.56′ W. long.;
(56) 47°16.84′ N. lat., 124°50.94′ W. long.;
(57) 47°16.01′ N. lat., 124°53.36′ W. long.;
(58) 47°14.32′ N. lat., 124°52.73′ W. long.;
(59) 47°11.97′ N. lat., 124°56.81′ W. long.;
(60) 47°12.93′ N. lat., 124°58.47′ W. long.;
(61) 47°09.43′ N. lat., 124°57.99′ W. long.;
(62) 47°09.36′ N. lat., 124°59.29′ W. long.;
(63) 47°05.88′ N. lat., 124°59.06′ W. long.;
(64) 47°03.64′ N. lat., 124°56.07′ W. long.;
(65) 47°01.00′ N. lat., 124°59.69′ W. long.;
(66) 46°58.72′ N. lat., 124°59.17′ W. long.;
(67) 46°58.30′ N. lat., 125°00.60′ W. long.;
(68) 46°55.61′ N. lat., 125°01.19′ W. long.;
(69) 46°56.96′ N. lat., 124°58.85′ W. long.;
(70) 46°55.91′ N. lat., 124°54.98′ W. long.;
(71) 46°54.55′ N. lat., 124°54.21′ W. long.;
(72) 46°56.80′ N. lat., 124°50.55′ W. long.;
(73) 46°54.87′ N. lat., 124°49.59′ W. long.;
(74) 46°54.63′ N. lat., 124°53.48′ W. long.;
(75) 46°52.33′ N. lat., 124°54.75′ W. long.;
(76) 46°45.12′ N. lat., 124°51.82′ W. long.;
(77) 46°39.20′ N. lat., 124°47.02′ W. long.;
(78) 46°38.17′ N. lat., 124°45.16′ W. long.;
(79) 46°33.45′ N. lat., 124°36.61′ W. long.;
(80) 46°33.37′ N. lat., 124°30.21′ W. long.;
(81) 46°31.67′ N. lat., 124°31.41′ W. long.;
(82) 46°27.87′ N. lat., 124°32.04′ W. long.;
(83) 46°21.01′ N. lat., 124°37.63′ W. long.;
(84) 46°18.58′ N. lat., 124°38.92′ W. long.;
(85) 46°16.00′ N. lat., 124°23.57′ W. long.;
(86) 46°12.85′ N. lat., 124°35.52′ W. long.;
(87) 46°12.27′ N. lat., 124°38.69′ W. long.;
(88) 46°08.71′ N. lat., 124°41.27′ W. long.;
(89) 46°05.80′ N. lat., 124°42.11′ W. long.;
(90) 46°02.84′ N. lat., 124°48.05′ W. long.;
(91) 46°02.41′ N. lat., 124°48.16′ W. long.;
(92) 45°58.96′ N. lat., 124°43.97′ W. long.;
(93) 45°47.05′ N. lat., 124°43.25′ W. long.;
(94) 45°46.00′ N. lat., 124°43.31′ W. long.;
(95) 45°44.22′ N. lat., 124°44.55′ W. long.;
(96) 45°34.97′ N. lat., 124°31.95′ W. long.;
(97) 45°20.25′ N. lat., 124°25.18′ W. long.;
(98) 45°13.09′ N. lat., 124°21.61′ W. long.;
(99) 45°09.59′ N. lat., 124°22.78′ W. long.;
(100) 45°03.83′ N. lat., 124°26.21′ W. long.;
(101) 45°00.22′ N. lat., 124°28.31′ W. long.;
(102) 44°53.53′ N. lat., 124°32.98′ W. long.;
(103) 44°40.79′ N. lat., 124°45.76′ W. long.;
(104) 44°41.35′ N. lat., 124°48.03′ W. long.;
(105) 44°40.27′ N. lat., 124°49.11′ W. long.;
(106) 44°38.52′ N. lat., 124°49.11′ W. long.;
(107) 44°38.25′ N. lat., 124°46.47′ W. long.;
(108) 44°28.84′ N. lat., 124°47.09′ W. long.;
(109) 44°23.24′ N. lat., 124°49.96′ W. long.;
(110) 44°13.07′ N. lat., 124°58.34′ W. long.;
(111) 44°08.30′ N. lat., 124°58.23′ W. long.;
(112) 43°57.99′ N. lat., 124°57.83′ W. long.;
(113) 43°51.43′ N. lat., 124°52.02′ W. long.;
(114) 43°50.72′ N. lat., 124°39.23′ W. long.;
(115) 43°39.04′ N. lat., 124°37.82′ W. long.;
(116) 43°27.76′ N. lat., 124°39.76′ W. long.;
(117) 43°20.83′ N. lat., 124°42.70′ W. long.;
(118) 43°20.22′ N. lat., 124°42.92′ W. long.;
(119) 43°13.07′ N. lat., 124°46.03′ W. long.;
(120) 43°10.43′ N. lat., 124°50.27′ W. long.;
(121) 43°08.83′ N. lat., 124°50.93′ W. long.;
(122) 43°05.89′ N. lat., 124°51.60′ W. long.;
(123) 43°04.60′ N. lat., 124°53.01′ W. long.;
(124) 43°02.64′ N. lat., 124°52.01′ W. long.;
(125) 43°00.39′ N. lat., 124°51.77′ W. long.;
(126) 42°58.00′ N. lat., 124°52.99′ W. long.;
(127) 42°57.56′ N. lat., 124°54.10′ W. long.;
(128) 42°53.82′ N. lat., 124°55.76′ W. long.;
(129) 42°53.20′ N. lat., 124°53.56′ W. long.;
(130) 42°50.00′ N. lat., 124°52.36′ W. long.;
(131) 42°50.00′ N. lat., 124°52.36′ W. long.;
(132) 42°49.43′ N. lat., 124°52.03′ W. long.;
(133) 42°47.68′ N. lat., 124°47.72′ W. long.;
(134) 42°46.17′ N. lat., 124°44.05′ W. long.;
(135) 42°41.67′ N. lat., 124°44.36′ W. long.;
(136) 42°40.50′ N. lat., 124°43.86′ W. long.;
(137) 42°38.79′ N. lat., 124°42.88′ W. long.;

(138) 42°32.39′ N. lat., 124°45.38′ W. long.;
(139) 42°32.08′ N. lat., 124°43.44′ W. long.;
(140) 42°30.98′ N. lat., 124°43.84′ W. long.;
(141) 42°28.37′ N. lat., 124°48.91′ W. long.;
(142) 42°20.07′ N. lat., 124°41.59′ W. long.;
(143) 42°15.05′ N. lat., 124°38.07′ W. long.;
(144) 42°13.67′ N. lat., 124°37.77′ W. long.;
(145) 42°07.37′ N. lat., 124°37.25′ W. long.;
(146) 42°04.93′ N. lat., 124°36.79′ W. long.;
(147) 42°00.00′ N. lat., 124°36.26′ W. long.;
(148) 41°47.60′ N. lat., 124°29.75′ W. long.;
(149) 41°22.07′ N. lat., 124°29.55′ W. long.;
(150) 41°13.58′ N. lat., 124°24.17′ W. long.;
(151) 41°06.51′ N. lat., 124°23.07′ W. long.;
(152) 40°55.20′ N. lat., 124°27.46′ W. long.;
(153) 40°49.76′ N. lat., 124°27.17′ W. long.;
(154) 40°45.79′ N. lat., 124°30.37′ W. long.;
(155) 40°40.31′ N. lat., 124°32.47′ W. long.;
(156) 40°37.42′ N. lat., 124°37.20′ W. long.;
(157) 40°36.03′ N. lat., 124°39.97′ W. long.;
(158) 40°31.48′ N. lat., 124°40.95′ W. long.;
(159) 40°30.00′ N. lat., 124°38.50′ W. long.;
(160) 40°24.81′ N. lat., 124°35.82′ W. long.;
(161) 40°22.00′ N. lat., 124°30.01′ W. long.;
(162) 40°16.84′ N. lat., 124°29.87′ W. long.;
(163) 40°17.06′ N. lat., 124°35.51′ W. long.;
(164) 40°16.41′ N. lat., 124°39.10′ W. long.;
(165) 40°10.00′ N. lat., 124°23.56′ W. long.;
(166) 40°06.67′ N. lat., 124°19.08′ W. long.;
(167) 40°08.10′ N. lat., 124°16.71′ W. long.;
(168) 40°05.90′ N. lat., 124°17.77′ W. long.;
(169) 40°02.80′ N. lat., 124°16.28′ W. long.;
(170) 40°01.98′ N. lat., 124°12.99′ W. long.;
(171) 40°01.53′ N. lat., 124°09.82′ W. long.;
(172) 39°58.28′ N. lat., 124°12.93′ W. long.;
(173) 39°57.06′ N. lat., 124°12.03′ W. long.;
(174) 39°56.31′ N. lat., 124°08.98′ W. long.;
(175) 39°55.20′ N. lat., 124°07.98′ W. long.;
(176) 39°52.57′ N. lat., 124°09.04′ W. long.;
(177) 39°42.78′ N. lat., 124°02.11′ W. long.;
(178) 39°34.76′ N. lat., 123°58.51′ W. long.;
(179) 39°34.22′ N. lat., 123°56.82′ W. long.;
(180) 39°32.98′ N. lat., 123°56.43′ W. long.;
(181) 39°32.14′ N. lat., 123°58.83′ W. long.;
(182) 39°07.79′ N. lat., 123°58.72′ W. long.;
(183) 39°00.99′ N. lat., 123°57.56′ W. long.;
(184) 39°00.05′ N. lat., 123°56.83′ W. long.;
(185) 38°57.50′ N. lat., 123°57.22′ W. long.;
(186) 38°56.28′ N. lat., 123°57.53′ W. long.;
(187) 38°56.01′ N. lat., 123°58.72′ W. long.;
(188) 38°52.41′ N. lat., 123°56.38′ W. long.;
(189) 38°46.81′ N. lat., 123°51.46′ W. long.;
(190) 38°45.56′ N. lat., 123°51.32′ W. long.;
(191) 38°43.24′ N. lat., 123°49.91′ W. long.;
(192) 38°41.42′ N. lat., 123°47.22′ W. long.;
(193) 38°40.97′ N. lat., 123°47.80′ W. long.;
(194) 38°38.58′ N. lat., 123°46.07′ W. long.;
(195) 38°37.38′ N. lat., 123°43.80′ W. long.;
(196) 38°33.86′ N. lat., 123°41.51′ W. long.;
(197) 38°29.45′ N. lat., 123°38.42′ W. long.;
(198) 38°28.20′ N. lat., 123°38.17′ W. long.;
(199) 38°24.09′ N. lat., 123°35.26′ W. long.;
(200) 38°16.72′ N. lat., 123°31.42′ W. long.;
(201) 38°15.32′ N. lat., 123°29.33′ W. long.;
(202) 38°14.45′ N. lat., 123°26.15′ W. long.;
(203) 38°10.26′ N. lat., 123°25.43′ W. long.;
(204) 38°12.61′ N. lat., 123°28.08′ W. long.;
(205) 38°11.98′ N. lat., 123°29.35′ W. long.;
(206) 38°08.23′ N. lat., 123°28.04′ W. long.;
(207) 38°06.39′ N. lat., 123°30.59′ W. long.;
(208) 38°04.25′ N. lat., 123°31.81′ W. long.;
(209) 38°02.08′ N. lat., 123°31.27′ W. long.;
(210) 38°00.17′ N. lat., 123°29.43′ W. long.;
(211) 38°00.00′ N. lat., 123°28.55′ W. long.;
(212) 37°58.24′ N. lat., 123°26.91′ W. long.;
(213) 37°55.32′ N. lat., 123°27.19′ W. long.;
(214) 37°51.52′ N. lat., 123°25.01′ W. long.;
(215) 37°44.21′ N. lat., 123°11.38′ W. long.;
(216) 37°35.67′ N. lat., 123°01.86′ W. long.;
(217) 37°14.29′ N. lat., 122°52.99′ W. long.;
(218) 37°11.00′ N. lat., 122°49.28′ W. long.;
(219) 37°07.00′ N. lat., 122°44.65′ W. long.;
(220) 37°00.86′ N. lat., 122°37.55′ W. long.;
(221) 36°59.71′ N. lat., 122°33.73′ W. long.;
(222) 36°57.98′ N. lat., 122°27.80′ W. long.;
(223) 36°59.83′ N. lat., 122°25.17′ W. long.;
(224) 36°57.21′ N. lat., 122°25.17′ W. long.;
(225) 36°57.79′ N. lat., 122°22.28′ W. long.;
(226) 36°55.86′ N. lat., 122°21.99′ W. long.;
(227) 36°52.06′ N. lat., 122°12.12′ W. long.;
(228) 36°47.63′ N. lat., 122°07.40′ W. long.;
(229) 36°47.26′ N. lat., 122°03.23′ W. long.;
(230) 36°49.53′ N. lat., 121°59.35′ W. long.;
(231) 36°44.81′ N. lat., 121°58.29′ W. long.;
(232) 36°38.95′ N. lat., 122°02.02′ W. long.;
(233) 36°23.43′ N. lat., 121°59.76′ W. long.;
(234) 36°19.66′ N. lat., 122°06.25′ W. long.;
(235) 36°14.78′ N. lat., 122°01.52′ W. long.;
(236) 36°13.64′ N. lat., 121°57.83′ W. long.;
(237) 36°09.99′ N. lat., 121°43.48′ W. long.;
(238) 36°00.00′ N. lat., 121°36.95′ W. long.;
(239) 35°57.09′ N. lat., 121°34.16′ W. long.;
(240) 35°52.71′ N. lat., 121°32.32′ W. long.;
(241) 35°51.23′ N. lat., 121°30.54′ W. long.;
(242) 35°46.07′ N. lat., 121°29.75′ W. long.;

(243) 35°34.08′ N. lat., 121°19.83′ W. long.;
(244) 35°31.41′ N. lat., 121°14.80′ W. long.;
(245) 35°15.42′ N. lat., 121°03.47′ W. long.;
(246) 35°07.70′ N. lat., 120°59.31′ W. long.;
(247) 34°57.27′ N. lat., 120°56.93′ W. long.;
(248) 34°44.27′ N. lat., 120°57.65′ W. long.;
(249) 34°32.75′ N. lat., 120°50.08′ W. long.;
(250) 34°27.00′ N. lat., 120°41.50′ W. long.;
(251) 34°20.00′ N. lat., 120°30.99′ W. long.;
(252) 34°19.15′ N. lat., 120°19.78′ W. long.;
(253) 34°23.24′ N. lat., 120°14.17′ W. long.;
(254) 34°21.35′ N. lat., 119°54.89′ W. long.;
(255) 34°09.79′ N. lat., 119°44.51′ W. long.;
(256) 34°07.34′ N. lat., 120°06.71′ W. long.;
(257) 34°09.74′ N. lat., 120°19.78′ W. long.;
(258) 34°13.95′ N. lat., 120°29.78′ W. long.;
(259) 34°09.41′ N. lat., 120°37.75′ W. long.;
(260) 34°03.39′ N. lat., 120°35.26′ W. long.;
(261) 33°56.82′ N. lat., 120°28.30′ W. long.;
(262) 33°50.71′ N. lat., 120°09.24′ W. long.;
(263) 33°38.21′ N. lat., 119°59.90′ W. long.;
(264) 33°35.35′ N. lat., 119°51.95′ W. long.;
(265) 33°35.99′ N. lat., 119°49.13′ W. long.;
(266) 33°42.74′ N. lat., 119°47.80′ W. long.;
(267) 33°53.65′ N. lat., 119°53.29′ W. long.;
(268) 33°57.85′ N. lat., 119°31.05′ W. long.;
(269) 33°56.78′ N. lat., 119°27.44′ W. long.;
(270) 33°58.03′ N. lat., 119°27.82′ W. long.;
(271) 33°59.31′ N. lat., 119°20.02′ W. long.;
(272) 34°02.91′ N. lat., 119°15.38′ W. long.;
(273) 33°59.04′ N. lat., 119°03.02′ W. long.;
(274) 33°57.88′ N. lat., 118°41.69′ W. long.;
(275) 33°50.89′ N. lat., 118°37.78′ W. long.;
(276) 33°39.54′ N. lat., 118°18.70′ W. long.;
(277) 33°35.42′ N. lat., 118°17.15′ W. long.;
(278) 33°31.26′ N. lat., 118°10.84′ W. long.;
(279) 33°32.71′ N. lat., 117°52.05′ W. long.;
(280) 32°58.94′ N. lat., 117°20.05′ W. long.;
(281) 32°46.45′ N. lat., 117°24.37′ W. long.;
(282) 32°42.25′ N. lat., 117°22.87′ W. long.;
(283) 32°39.50′ N. lat., 117°27.80′ W. long.; and
(284) 32°34.83′ N. lat., 117°24.67′ W. long.

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(f) * * *
(90) 34°40.04′ N. lat., 120°53.95′ W. long.;
(91) 34°27.00′ N. lat., 120°41.50′ W. long.;
(92) 34°21.16′ N. lat., 120°33.11′ W. long.;
(93) 34°19.15′ N. lat., 120°19.78′ W. long.;
(94) 34°23.24′ N. lat., 120°14.17′ W. long.;
(95) 34°21.47′ N. lat., 119°54.68′ W. long.;
(96) 34°09.79′ N. lat., 119°44.51′ W. long.;
(97) 34°07.34′ N. lat., 120°06.71′ W. long.;
(98) 34°09.43′ N. lat., 120°18.34′ W. long.;
(99) 34°12.50′ N. lat., 120°18.34′ W. long.;
(100) 34°12.50′ N. lat., 120°26.11′ W. long.;
(101) 34°14.02′ N. lat., 120°29.61′ W. long.;
(102) 34°09.55′ N. lat., 120°37.83′ W. long.;
(103) 34°05.35′ N. lat., 120°36.23′ W. long.;
(104) 34°02.21′ N. lat., 120°36.23′ W. long.;
(105) 34°02.21′ N. lat., 120°33.94′ W. long.;
(106) 33°56.82′ N. lat., 120°28.30′ W. long.;
(107) 33°50.40′ N. lat., 120°09.94′ W. long.;
(108) 33°38.21′ N. lat., 119°59.90′ W. long.;
(109) 33°35.35′ N. lat., 119°51.95′ W. long.;
(110) 33°35.99′ N. lat., 119°49.13′ W. long.;
(111) 33°42.74′ N. lat., 119°47.81′ W. long.;
(112) 33°51.63′ N. lat., 119°52.94′ W. long.;
(113) 33°51.62′ N. lat., 119°47.94′ W. long.;
(114) 33°54.67′ N. lat., 119°47.94′ W. long.;
(115) 33°57.84′ N. lat., 119°30.94′ W. long.;
(116) 33°54.11′ N. lat., 119°30.94′ W. long.;
(117) 33°54.11′ N. lat., 119°25.94′ W. long.;
(118) 33°58.14′ N. lat., 119°25.94′ W. long.;
(119) 33°59.31′ N. lat., 119°20.02′ W. long.;
(120) 34°02.91′ N. lat., 119°15.38′ W. long.;
(121) 33°59.04′ N. lat., 119°03.02′ W. long.;
(122) 33°57.88′ N. lat., 118°41.69′ W. long.;
(123) 33°50.89′ N. lat., 118°37.78′ W. long.;
(124) 33°39.16′ N. lat., 118°18.24′ W. long.;
(125) 33°35.44′ N. lat., 118°17.31′ W. long.;
(126) 33°31.37′ N. lat., 118°10.39′ W. long.;
(127) 33°32.71′ N. lat., 117°52.05′ W. long.;
(128) 32°58.94′ N. lat., 117°20.06′ W. long.; and
(129) 32°35.48′ N. lat., 117°28.83′ W. long.

(g) * * *
(1) 48°14.75′ N. lat., 125°41.73′ W. long.;
(2) 48°12.85′ N. lat., 125°38.06′ W. long.;
(3) 48°10.00′ N. lat., 125°41.82′ W. long.;
(4) 48°07.10′ N. lat., 125°45.65′ W. long.;
(5) 48°05.71′ N. lat., 125°44.70′ W. long.;
(6) 48°04.07′ N. lat., 125°36.96′ W. long.;
(7) 48°03.05′ N. lat., 125°36.38′ W. long.;
(8) 48°01.98′ N. lat., 125°37.41′ W. long.;
(9) 48°01.46′ N. lat., 125°39.61′ W. long.;
(10) 47°56.94′ N. lat., 125°36.65′ W. long.;
(11) 47°55.11′ N. lat., 125°36.92′ W. long.;
(12) 47°54.10′ N. lat., 125°34.98′ W. long.;
(13) 47°54.50′ N. lat., 125°32.01′ W. long.;
(14) 47°55.77′ N. lat., 125°30.13′ W. long.;
(15) 47°55.65′ N. lat., 125°28.46′ W. long.;
(16) 47°58.11′ N. lat., 125°26.60′ W. long.;
(17) 48°00.40′ N. lat., 125°24.83′ W. long.;
(18) 48°02.04′ N. lat., 125°22.90′ W. long.;
(19) 48°03.60′ N. lat., 125°21.84′ W. long.;
(20) 48°03.98′ N. lat., 125°20.65′ W. long.;

(21) 48°03.26′ N. lat., 125°19.76′ W. long.;
(22) 48°01.50′ N. lat., 125°18.80′ W. long.;
(23) 48°01.03′ N. lat., 125°20.12′ W. long.;
(24) 48°00.04′ N. lat., 125°20.26′ W. long.;
(25) 47°58.10′ N. lat., 125°18.91′ W. long.;
(26) 47°58.17′ N. lat., 125°17.50′ W. long.;
(27) 47°52.33′ N. lat., 125°15.78′ W. long.;
(28) 47°49.20′ N. lat., 125°10.67′ W. long.;
(29) 47°48.27′ N. lat., 125°07.38′ W. long.;
(30) 47°47.24′ N. lat., 125°05.38′ W. long.;
(31) 47°45.95′ N. lat., 125°04.61′ W. long.;
(32) 47°44.58′ N. lat., 125°07.12′ W. long.;
(33) 47°42.24′ N. lat., 125°05.15′ W. long.;
(34) 47°38.54′ N. lat., 125°06.76′ W. long.;
(35) 47°35.03′ N. lat., 125°04.28′ W. long.;
(36) 47°28.82′ N. lat., 124°56.24′ W. long.;
(37) 47°29.15′ N. lat., 124°54.10′ W. long.;
(38) 47°28.43′ N. lat., 124°51.58′ W. long.;
(39) 47°24.13′ N. lat., 124°47.50′ W. long.;
(40) 47°18.31′ N. lat., 124°46.17′ W. long.;
(41) 47°19.57′ N. lat., 124°51.00′ W. long.;
(42) 47°18.12′ N. lat., 124°53.66′ W. long.;
(43) 47°17.60′ N. lat., 124°52.94′ W. long.;
(44) 47°17.71′ N. lat., 124°51.63′ W. long.;
(45) 47°16.90′ N. lat., 124°51.23′ W. long.;
(46) 47°16.10′ N. lat., 124°53.67′ W. long.;
(47) 47°14.24′ N. lat., 124°53.02′ W. long.;
(48) 47°12.16′ N. lat., 124°56.77′ W. long.;
(49) 47°13.35′ N. lat., 124°58.70′ W. long.;
(50) 47°09.53′ N. lat., 124°58.32′ W. long.;
(51) 47°09.54′ N. lat., 124°59.50′ W. long.;
(52) 47°05.87′ N. lat., 124°59.30′ W. long.;
(53) 47°03.65′ N. lat., 124°56.26′ W. long.;
(54) 47°00.87′ N. lat., 124°59.52′ W. long.;
(55) 46°56.80′ N. lat., 125°00.00′ W. long.;
(56) 46°51.55′ N. lat., 125°00.00′ W. long.;
(57) 46°50.07′ N. lat., 124°53.90′ W. long.;
(58) 46°44.88′ N. lat., 124°51.97′ W. long.;
(59) 46°38.17′ N. lat., 124°42.66′ W. long.;
(60) 46°33.45′ N. lat., 124°36.11′ W. long.;
(61) 46°33.20′ N. lat., 124°30.64′ W. long.;
(62) 46°27.85′ N. lat., 124°31.95′ W. long.;
(63) 46°18.27′ N. lat., 124°39.28′ W. long.;
(64) 46°16.00′ N. lat., 124°24.88′ W. long.;
(65) 46°14.22′ N. lat., 124°26.29′ W. long.;
(66) 46°11.53′ N. lat., 124°39.58′ W. long.;
(67) 46°08.77′ N. lat., 124°41.71′ W. long.;
(68) 46°05.86′ N. lat., 124°42.26′ W. long.;
(69) 46°03.85′ N. lat., 124°48.20′ W. long.;
(70) 46°02.33′ N. lat., 124°48.51′ W. long.;
(71) 45°58.99′ N. lat., 124°44.42′ W. long.;
(72) 45°46.90′ N. lat., 124°43.50′ W. long.;
(73) 45°46.00′ N. lat., 124°44.27′ W. long.;
(74) 45°44.98′ N. lat., 124°44.93′ W. long.;
(75) 45°43.46′ N. lat., 124°44.93′ W. long.;
(76) 45°34.88′ N. lat., 124°32.59′ W. long.;
(77) 45°20.25′ N. lat., 124°25.47′ W. long.;
(78) 45°13.06′ N. lat., 124°22.25′ W. long.;
(79) 45°03.83′ N. lat., 124°27.13′ W. long.;
(80) 45°00.17′ N. lat., 124°29.29′ W. long.;
(81) 44°55.60′ N. lat., 124°32.36′ W. long.;
(82) 44°48.25′ N. lat., 124°40.61′ W. long.;
(83) 44°42.24′ N. lat., 124°48.05′ W. long.;
(84) 44°41.35′ N. lat., 124°48.03′ W. long.;
(85) 44°40.27′ N. lat., 124°49.11′ W. long.;
(86) 44°38.52′ N. lat., 124°49.11′ W. long.;
(87) 44°23.30′ N. lat., 124°50.17′ W. long.;
(88) 44°13.19′ N. lat., 124°58.66′ W. long.;
(89) 44°08.30′ N. lat., 124°58.50′ W. long.;
(90) 43°57.89′ N. lat., 124°58.13′ W. long.;
(91) 43°50.59′ N. lat., 124°52.80′ W. long.;
(92) 43°50.10′ N. lat., 124°40.27′ W. long.;
(93) 43°39.05′ N. lat., 124°38.56′ W. long.;
(94) 43°28.85′ N. lat., 124°40.00′ W. long.;
(95) 43°20.83′ N. lat., 124°42.84′ W. long.;
(96) 43°20.22′ N. lat., 124°43.05′ W. long.;
(97) 43°13.29′ N. lat., 124°47.00′ W. long.;
(98) 43°13.15′ N. lat., 124°52.61′ W. long.;
(99) 43°04.60′ N. lat., 124°53.01′ W. long.;
(100) 42°57.56′ N. lat., 124°54.10′ W. long.;
(101) 42°53.82′ N. lat., 124°55.76′ W. long.;
(102) 42°53.41′ N. lat., 124°54.35′ W. long.;
(103) 42°49.52′ N. lat., 124°53.16′ W. long.;
(104) 42°47.47′ N. lat., 124°50.24′ W. long.;
(105) 42°47.57′ N. lat., 124°48.13′ W. long.;
(106) 42°46.19′ N. lat., 124°44.52′ W. long.;
(107) 42°41.75′ N. lat., 124°44.69′ W. long.;
(108) 42°40.50′ N. lat., 124°44.02′ W. long.;
(109) 42°38.81′ N. lat., 124°43.09′ W. long.;
(110) 42°31.82′ N. lat., 124°46.24′ W. long.;
(111) 42°31.96′ N. lat., 124°44.32′ W. long.;
(112) 42°30.95′ N. lat., 124°44.50′ W. long.;
(113) 42°28.39′ N. lat., 124°49.56′ W. long.;
(114) 42°23.34′ N. lat., 124°44.91′ W. long.;
(115) 42°19.72′ N. lat., 124°41.60′ W. long.;
(116) 42°15.12′ N. lat., 124°38.34′ W. long.;
(117) 42°13.67′ N. lat., 124°38.22′ W. long.;
(118) 42°12.35′ N. lat., 124°38.09′ W. long.;
(119) 42°04.35′ N. lat., 124°37.23′ W. long.;
(120) 42°00.00′ N. lat., 124°36.80′ W. long.;
(121) 41°47.84′ N. lat., 124°30.48′ W. long.;
(122) 41°43.33′ N. lat., 124°29.96′ W. long.;
(123) 41°23.46′ N. lat., 124°30.36′ W. long.;
(124) 41°21.29′ N. lat., 124°29.43′ W. long.;
(125) 41°13.52′ N. lat., 124°24.48′ W. long.;

(126) 41°06.71′ N. lat., 124°23.37′ W. long.;
(127) 40°54.66′ N. lat., 124°28.20′ W. long.;
(128) 40°51.52′ N. lat., 124°27.47′ W. long.;
(129) 40°40.62′ N. lat., 124°32.75′ W. long.;
(130) 40°36.08′ N. lat., 124°40.18′ W. long.;
(131) 40°32.90′ N. lat., 124°41.90′ W. long.;
(132) 40°31.30′ N. lat., 124°41.00′ W. long.;
(133) 40°30.00′ N. lat., 124°38.15′ W. long.;
(134) 40°27.29′ N. lat., 124°37.34′ W. long.;
(135) 40°24.98′ N. lat., 124°36.44′ W. long.;
(136) 40°22.22′ N. lat., 124°31.85′ W. long.;
(137) 40°16.94′ N. lat., 124°32.00′ W. long.;
(138) 40°17.58′ N. lat., 124°45.30′ W. long.;
(139) 40°13.24′ N. lat., 124°32.43′ W. long.;
(140) 40°10.00′ N. lat., 124°24.64′ W. long.;
(141) 40°06.43′ N. lat., 124°19.26′ W. long.;
(142) 40°07.06′ N. lat., 124°17.82′ W. long.;
(143) 40°04.70′ N. lat., 124°18.17′ W. long.;
(144) 40°02.34′ N. lat., 124°16.64′ W. long.;
(145) 40°01.52′ N. lat., 124°09.89′ W. long.;
(146) 39°58.27′ N. lat., 124°13.58′ W. long.;
(147) 39°56.59′ N. lat., 124°12.09′ W. long.;
(148) 39°55.19′ N. lat., 124°08.03′ W. long.;
(149) 39°52.54′ N. lat., 124°09.47′ W. long.;
(150) 39°42.67′ N. lat., 124°02.59′ W. long.;
(151) 39°35.95′ N. lat., 123°59.56′ W. long.;
(152) 39°34.61′ N. lat., 123°59.66′ W. long.;
(153) 39°33.77′ N. lat., 123°56.89′ W. long.;
(154) 39°33.01′ N. lat., 123°57.14′ W. long.;
(155) 39°32.20′ N. lat., 123°59.20′ W. long.;
(156) 39°07.84′ N. lat., 123°59.14′ W. long.;
(157) 39°01.11′ N. lat., 123°57.97′ W. long.;
(158) 39°00.51′ N. lat., 123°56.96′ W. long.;
(159) 38°57.50′ N. lat., 123°57.57′ W. long.;
(160) 38°56.57′ N. lat., 123°57.80′ W. long.;
(161) 38°56.39′ N. lat., 123°59.48′ W. long.;
(162) 38°50.22′ N. lat., 123°55.55′ W. long.;
(163) 38°46.76′ N. lat., 123°51.56′ W. long.;
(164) 38°45.27′ N. lat., 123°51.63′ W. long.;
(165) 38°42.76′ N. lat., 123°49.83′ W. long.;
(166) 38°41.53′ N. lat., 123°47.83′ W. long.;
(167) 38°40.97′ N. lat., 123°48.14′ W. long.;
(168) 38°38.02′ N. lat., 123°45.85′ W. long.;
(169) 38°37.19′ N. lat., 123°44.08′ W. long.;
(170) 38°33.43′ N. lat., 123°41.82′ W. long.;
(171) 38°29.44′ N. lat., 123°38.49′ W. long.;
(172) 38°28.08′ N. lat., 123°38.33′ W. long.;
(173) 38°23.68′ N. lat., 123°35.47′ W. long.;
(174) 38°19.63′ N. lat., 123°34.05′ W. long.;
(175) 38°16.23′ N. lat., 123°31.90′ W. long.;
(176) 38°14.79′ N. lat., 123°29.98′ W. long.;
(177) 38°14.12′ N. lat., 123°26.36′ W. long.;
(178) 38°10.85′ N. lat., 123°25.84′ W. long.;
(179) 38°13.15′ N. lat., 123°28.25′ W. long.;
(180) 38°12.28′ N. lat., 123°29.88′ W. long.;
(181) 38°10.19′ N. lat., 123°29.11′ W. long.;
(182) 38°07.94′ N. lat., 123°28.52′ W. long.;
(183) 38°06.51′ N. lat., 123°30.96′ W. long.;
(184) 38°04.21′ N. lat., 123°32.03′ W. long.;
(185) 38°02.07′ N. lat., 123°31.37′ W. long.;
(186) 38°00.00′ N. lat., 123°29.62′ W. long.;
(187) 37°58.13′ N. lat., 123°27.28′ W. long.;
(188) 37°55.01′ N. lat., 123°27.53′ W. long.;
(189) 37°51.40′ N. lat., 123°25.25′ W. long.;
(190) 37°43.97′ N. lat., 123°11.56′ W. long.;
(191) 37°35.67′ N. lat., 123°02.32′ W. long.;
(192) 37°13.65′ N. lat., 122°54.25′ W. long.;
(193) 37°11.00′ N. lat., 122°50.97′ W. long.;
(194) 37°07.00′ N. lat., 122°45.90′ W. long.;
(195) 37°00.66′ N. lat., 122°37.91′ W. long.;
(196) 36°57.40′ N. lat., 122°28.32′ W. long.;
(197) 36°59.25′ N. lat., 122°25.61′ W. long.;
(198) 36°56.88′ N. lat., 122°25.49′ W. long.;
(199) 36°57.40′ N. lat., 122°22.69′ W. long.;
(200) 36°55.43′ N. lat., 122°22.49′ W. long.;
(201) 36°52.29′ N. lat., 122°13.25′ W. long.;
(202) 36°47.12′ N. lat., 122°07.62′ W. long.;
(203) 36°47.10′ N. lat., 122°02.17′ W. long.;
(204) 36°43.76′ N. lat., 121°59.17′ W. long.;
(205) 36°38.85′ N. lat., 122°02.26′ W. long.;
(206) 36°23.41′ N. lat., 122°00.17′ W. long.;
(207) 36°19.68′ N. lat., 122°06.99′ W. long.;
(208) 36°14.75′ N. lat., 122°01.57′ W. long.;
(209) 36°09.74′ N. lat., 121°45.06′ W. long.;
(210) 36°06.75′ N. lat., 121°40.79′ W. long.;
(211) 36°00.00′ N. lat., 121°35.98′ W. long.;
(212) 35°58.18′ N. lat., 121°34.69′ W. long.;
(213) 35°52.31′ N. lat., 121°32.51′ W. long.;
(214) 35°51.21′ N. lat., 121°30.97′ W. long.;
(215) 35°46.32′ N. lat., 121°30.36′ W. long.;
(216) 35°33.74′ N. lat., 121°20.16′ W. long.;
(217) 35°31.37′ N. lat., 121°15.29′ W. long.;
(218) 35°23.32′ N. lat., 121°11.50′ W. long.;
(219) 35°15.28′ N. lat., 121°04.51′ W. long.;
(220) 35°07.08′ N. lat., 121°00.36′ W. long.;
(221) 34°57.46′ N. lat., 120°58.29′ W. long.;
(222) 34°44.25′ N. lat., 120°58.35′ W. long.;
(223) 34°32.30′ N. lat., 120°50.28′ W. long.;
(224) 34°27.00′ N. lat., 120°42.61′ W. long.;
(225) 34°19.08′ N. lat., 120°31.27′ W. long.;
(226) 34°17.72′ N. lat., 120°19.32′ W. long.;
(227) 34°22.45′ N. lat., 120°12.87′ W. long.;
(228) 34°21.36′ N. lat., 119°54.94′ W. long.;
(229) 34°09.95′ N. lat., 119°46.24′ W. long.;
(230) 34°09.08′ N. lat., 119°57.59′ W. long.;

(231) 34°07.53′ N. lat., 120°06.41′ W. long.;
(232) 34°10.54′ N. lat., 120°19.13′ W. long.;
(233) 34°14.68′ N. lat., 120°29.54′ W. long.;
(234) 34°09.51′ N. lat., 120°38.38′ W. long.;
(235) 34°03.06′ N. lat., 120°35.60′ W. long.;
(236) 33°56.39′ N. lat., 120°28.53′ W. long.;
(237) 33°50.25′ N. lat., 120°09.49′ W. long.;
(238) 33°37.96′ N. lat., 120°00.14′ W. long.;
(239) 33°34.52′ N. lat., 119°51.90′ W. long.;
(240) 33°35.51′ N. lat., 119°48.55′ W. long.;
(241) 33°42.76′ N. lat., 119°47.83′ W. long.;
(242) 33°53.62′ N. lat., 119°53.34′ W. long.;
(243) 33°57.61′ N. lat., 119°31.32′ W. long.;
(244) 33°56.34′ N. lat., 119°26.46′ W. long.;
(245) 33°57.79′ N. lat., 119°26.91′ W. long.;
(246) 33°58.88′ N. lat., 119°20.12′ W. long.;
(247) 34°02.65′ N. lat., 119°15.17′ W. long.;
(248) 33°59.02′ N. lat., 119°03.05′ W. long.;
(249) 33°57.61′ N. lat., 118°42.13′ W. long.;
(250) 33°50.76′ N. lat., 118°38.03′ W. long.;
(251) 33°39.41′ N. lat., 118°18.74′ W. long.;
(252) 33°35.51′ N. lat., 118°18.08′ W. long.;
(253) 33°30.68′ N. lat., 118°10.40′ W. long.;
(254) 33°32.49′ N. lat., 117°51.90′ W. long.;
(255) 32°58.87′ N. lat., 117°20.41′ W. long.; and
(256) 32°35.53′ N. lat., 117°29.72′ W. long.

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(1) 48°14.75′ N. lat., 125°41.73′ W. long.;
(2) 48°12.85′ N. lat., 125°38.06′ W. long.;
(3) 48°10.00′ N. lat., 125°41.82′ W. long.;
(4) 48°07.10′ N. lat., 125°45.65′ W. long.;
(5) 48°05.71′ N. lat., 125°44.69′ W. long.;
(6) 48°04.07′ N. lat., 125°36.96′ W. long.;
(7) 48°03.05′ N. lat., 125°36.38′ W. long.;
(8) 48°01.98′ N. lat., 125°37.41′ W. long.;
(9) 48°01.46′ N. lat., 125°39.61′ W. long.;
(10) 47°56.94′ N. lat., 125°36.65′ W. long.;
(11) 47°55.77′ N. lat., 125°30.13′ W. long.;
(12) 47°55.65′ N. lat., 125°28.46′ W. long.;
(13) 47°58.11′ N. lat., 125°26.60′ W. long.;
(14) 48°00.40′ N. lat., 125°24.83′ W. long.;
(15) 48°02.04′ N. lat., 125°22.90′ W. long.;
(16) 48°03.60′ N. lat., 125°21.84′ W. long.;
(17) 48°03.98′ N. lat., 125°20.65′ W. long.;
(18) 48°03.26′ N. lat., 125°19.76′ W. long.;
(19) 48°01.50′ N. lat., 125°18.80′ W. long.;
(20) 48°01.03′ N. lat., 125°20.12′ W. long.;
(21) 48°00.04′ N. lat., 125°20.26′ W. long.;
(22) 47°58.10′ N. lat., 125°18.91′ W. long.;
(23) 47°58.17′ N. lat., 125°17.50′ W. long.;
(24) 47°52.33′ N. lat., 125°15.78′ W. long.;
(25) 47°49.20′ N. lat., 125°10.67′ W. long.;
(26) 47°48.27′ N. lat., 125°07.38′ W. long.;
(27) 47°47.24′ N. lat., 125°05.38′ W. long.;
(28) 47°45.95′ N. lat., 125°04.61′ W. long.;
(29) 47°44.58′ N. lat., 125°07.12′ W. long.;
(30) 47°42.24′ N. lat., 125°05.15′ W. long.;
(31) 47°38.54′ N. lat., 125°06.76′ W. long.;
(32) 47°35.03′ N. lat., 125°04.28′ W. long.;
(33) 47°28.82′ N. lat., 124°56.24′ W. long.;
(34) 47°29.15′ N. lat., 124°54.10′ W. long.;
(35) 47°28.43′ N. lat., 124°51.58′ W. long.;
(36) 47°24.13′ N. lat., 124°47.50′ W. long.;
(37) 47°18.31′ N. lat., 124°46.17′ W. long.;
(38) 47°19.57′ N. lat., 124°51.00′ W. long.;
(39) 47°18.12′ N. lat., 124°53.66′ W. long.;
(40) 47°17.60′ N. lat., 124°52.94′ W. long.;
(41) 47°17.71′ N. lat., 124°51.63′ W. long.;
(42) 47°16.90′ N. lat., 124°51.23′ W. long.;
(43) 47°16.10′ N. lat., 124°53.67′ W. long.;
(44) 47°14.24′ N. lat., 124°53.02′ W. long.;
(45) 47°12.16′ N. lat., 124°56.77′ W. long.;
(46) 47°13.35′ N. lat., 124°58.70′ W. long.;
(47) 47°09.53′ N. lat., 124°58.32′ W. long.;
(48) 47°09.54′ N. lat., 124°59.50′ W. long.;
(49) 47°05.87′ N. lat., 124°59.30′ W. long.;
(50) 47°03.65′ N. lat., 124°56.26′ W. long.;
(51) 47°00.87′ N. lat., 124°59.52′ W. long.;
(52) 46°56.80′ N. lat., 125°00.00′ W. long.;
(53) 46°51.55′ N. lat., 125°00.00′ W. long.;
(54) 46°50.07′ N. lat., 124°53.90′ W. long.;
(55) 46°44.88′ N. lat., 124°51.97′ W. long.;
(56) 46°38.17′ N. lat., 124°42.66′ W. long.;
(57) 46°33.45′ N. lat., 124°36.11′ W. long.;
(58) 46°33.20′ N. lat., 124°30.64′ W. long.;
(59) 46°27.85′ N. lat., 124°31.95′ W. long.;
(60) 46°18.27′ N. lat., 124°39.28′ W. long.;
(61) 46°16.00′ N. lat., 124°24.88′ W. long.;
(62) 46°14.22′ N. lat., 124°26.28′ W. long.;
(63) 46°11.53′ N. lat., 124°39.58′ W. long.;
(64) 46°08.77′ N. lat., 124°41.71′ W. long.;
(65) 46°05.86′ N. lat., 124°42.27′ W. long.;
(66) 46°03.85′ N. lat., 124°48.20′ W. long.;
(67) 46°02.34′ N. lat., 124°48.51′ W. long.;
(68) 45°58.99′ N. lat., 124°44.42′ W. long.;
(69) 45°49.68′ N. lat., 124°42.37′ W. long.;
(70) 45°49.74′ N. lat., 124°43.69′ W. long.;
(71) 45°46.00′ N. lat., 124°41.82′ W. long.;
(72) 45°40.83′ N. lat., 124°40.90′ W. long.;
(73) 45°34.88′ N. lat., 124°32.58′ W. long.;
(74) 45°20.25′ N. lat., 124°25.47′ W. long.;
(75) 45°13.04′ N. lat., 124°21.92′ W. long.;
(76) 45°03.83′ N. lat., 124°27.13′ W. long.;
(77) 45°00.17′ N. lat., 124°29.28′ W. long.;

(78) 44°50.99′ N. lat., 124°35.40′ W. long.;
(79) 44°46.87′ N. lat., 124°38.20′ W. long.;
(80) 44°48.25′ N. lat., 124°40.62′ W. long.;
(81) 44°41.34′ N. lat., 124°49.20′ W. long.;
(82) 44°23.30′ N. lat., 124°50.17′ W. long.;
(83) 44°13.19′ N. lat., 124°58.66′ W. long.;
(84) 44°08.30′ N. lat., 124°58.72′ W. long.;
(85) 43°57.37′ N. lat., 124°58.71′ W. long.;
(86) 43°52.32′ N. lat., 124°49.43′ W. long.;
(87) 43°51.35′ N. lat., 124°37.94′ W. long.;
(88) 43°49.73′ N. lat., 124°40.26′ W. long.;
(89) 43°39.06′ N. lat., 124°38.55′ W. long.;
(90) 43°28.85′ N. lat., 124°39.99′ W. long.;
(91) 43°20.83′ N. lat., 124°42.89′ W. long.;
(92) 43°20.22′ N. lat., 124°43.05′ W. long.;
(93) 43°13.29′ N. lat., 124°47.00′ W. long.;
(94) 43°10.64′ N. lat., 124°49.95′ W. long.;
(95) 43°04.26′ N. lat., 124°53.05′ W. long.;
(96) 42°53.93′ N. lat., 124°54.60′ W. long.;
(97) 42°50.00′ N. lat., 124°50.60′ W. long.;
(98) 42°47.57′ N. lat., 124°48.12′ W. long.;
(99) 42°46.19′ N. lat., 124°44.52′ W. long.;
(100) 42°41.75′ N. lat., 124°44.69′ W. long.;
(101) 42°40.50′ N. lat., 124°44.02′ W. long.;
(102) 42°38.81′ N. lat., 124°43.09′ W. long.;
(103) 42°31.83′ N. lat., 124°46.23′ W. long.;
(104) 42°32.08′ N. lat., 124°43.58′ W. long.;
(105) 42°30.96′ N. lat., 124°43.84′ W. long.;
(106) 42°28.41′ N. lat., 124°49.17′ W. long.;
(107) 42°24.80′ N. lat., 124°45.93′ W. long.;
(108) 42°19.71′ N. lat., 124°41.60′ W. long.;
(109) 42°15.12′ N. lat., 124°38.34′ W. long.;
(110) 42°13.67′ N. lat., 124°38.28′ W. long.;
(111) 42°12.35′ N. lat., 124°38.09′ W. long.;
(112) 42°00.00′ N. lat., 124°36.83′ W. long.;
(113) 41°47.78′ N. lat., 124°29.55′ W. long.;
(114) 41°21.15′ N. lat., 124°29.04′ W. long.;
(115) 41°13.50′ N. lat., 124°24.40′ W. long.;
(116) 41°11.00′ N. lat., 124°22.99′ W. long.;
(117) 41°06.69′ N. lat., 124°23.30′ W. long.;
(118) 40°54.73′ N. lat., 124°28.15′ W. long.;
(119) 40°53.94′ N. lat., 124°26.11′ W. long.;
(120) 40°50.31′ N. lat., 124°26.15′ W. long.;
(121) 40°44.49′ N. lat., 124°30.89′ W. long.;
(122) 40°40.62′ N. lat., 124°32.16′ W. long.;
(123) 40°38.87′ N. lat., 124°30.15′ W. long.;
(124) 40°35.67′ N. lat., 124°30.43′ W. long.;
(125) 40°37.41′ N. lat., 124°37.06′ W. long.;
(126) 40°36.09′ N. lat., 124°40.11′ W. long.;
(127) 40°31.33′ N. lat., 124°41.01′ W. long.;
(128) 40°30.00′ N. lat., 124°38.15′ W. long.;
(129) 40°27.34′ N. lat., 124°37.28′ W. long.;
(130) 40°25.01′ N. lat., 124°36.36′ W. long.;
(131) 40°22.28′ N. lat., 124°31.35′ W. long.;
(132) 40°16.29′ N. lat., 124°34.50′ W. long.;
(133) 40°14.00′ N. lat., 124°33.02′ W. long.;
(134) 40°10.00′ N. lat., 124°24.55′ W. long.;
(135) 40°06.45′ N. lat., 124°19.24′ W. long.;
(136) 40°07.08′ N. lat., 124°17.80′ W. long.;
(137) 40°05.55′ N. lat., 124°18.11′ W. long.;
(138) 40°04.74′ N. lat., 124°18.11′ W. long.;
(139) 40°02.35′ N. lat., 124°16.54′ W. long.;
(140) 40°01.51′ N. lat., 124°09.89′ W. long.;
(141) 39°58.54′ N. lat., 124°12.43′ W. long.;
(142) 39°55.72′ N. lat., 124°09.86′ W. long.;
(143) 39°42.64′ N. lat., 124°02.52′ W. long.;
(144) 39°35.96′ N. lat., 123°59.47′ W. long.;
(145) 39°34.61′ N. lat., 123°59.59′ W. long.;
(146) 39°33.79′ N. lat., 123°56.77′ W. long.;
(147) 39°33.03′ N. lat., 123°57.06′ W. long.;
(148) 39°32.21′ N. lat., 123°59.12′ W. long.;
(149) 39°07.81′ N. lat., 123°59.06′ W. long.;
(150) 38°57.50′ N. lat., 123°57.32′ W. long.;
(151) 38°52.26′ N. lat., 123°56.18′ W. long.;
(152) 38°50.21′ N. lat., 123°55.48′ W. long.;
(153) 38°46.81′ N. lat., 123°51.49′ W. long.;
(154) 38°45.29′ N. lat., 123°51.55′ W. long.;
(155) 38°42.76′ N. lat., 123°49.73′ W. long.;
(156) 38°41.42′ N. lat., 123°47.45′ W. long.;
(157) 38°35.74′ N. lat., 123°43.82′ W. long.;
(158) 38°34.92′ N. lat., 123°42.53′ W. long.;
(159) 38°19.65′ N. lat., 123°31.95′ W. long.;
(160) 38°14.38′ N. lat., 123°25.51′ W. long.;
(161) 38°09.39′ N. lat., 123°24.40′ W. long.;
(162) 38°10.06′ N. lat., 123°26.84′ W. long.;
(163) 38°04.58′ N. lat., 123°31.91′ W. long.;
(164) 38°02.06′ N. lat., 123°31.26′ W. long.;
(165) 38°00.00′ N. lat., 123°29.56′ W. long.;
(166) 37°58.07′ N. lat., 123°27.21′ W. long.;
(167) 37°55.07′ N. lat., 123°27.20′ W. long.;
(168) 37°50.77′ N. lat., 123°24.52′ W. long.;
(169) 37°43.94′ N. lat., 123°11.49′ W. long.;
(170) 37°35.67′ N. lat., 123°02.23′ W. long.;
(171) 37°23.48′ N. lat., 122°57.77′ W. long.;
(172) 37°23.23′ N. lat., 122°53.85′ W. long.;
(173) 37°13.96′ N. lat., 122°49.97′ W. long.;
(174) 37°11.00′ N. lat., 122°45.68′ W. long.;
(175) 37°07.00′ N. lat., 122°43.37′ W. long.;
(176) 37°01.04′ N. lat., 122°37.94′ W. long.;
(177) 36°57.40′ N. lat., 122°28.36′ W. long.;
(178) 36°59.21′ N. lat., 122°25.64′ W. long.;
(179) 36°56.90′ N. lat., 122°25.42′ W. long.;
(180) 36°57.60′ N. lat., 122°21.95′ W. long.;
(181) 36°55.69′ N. lat., 122°22.32′ W. long.;
(182) 36°52.27′ N. lat., 122°13.17′ W. long.;

(183) 36°47.38′ N. lat., 122°07.62′ W. long.;
(184) 36°47.27′ N. lat., 122°03.77′ W. long.;
(185) 36°24.12′ N. lat., 121°59.74′ W. long.;
(186) 36°21.99′ N. lat., 122°01.01′ W. long.;
(187) 36°19.56′ N. lat., 122°05.88′ W. long.;
(188) 36°14.63′ N. lat., 122°01.10′ W. long.;
(189) 36°09.74′ N. lat., 121°45.01′ W. long.;
(190) 36°06.69′ N. lat., 121°40.77′ W. long.;
(191) 36°00.00′ N. lat., 121°36.01′ W. long.;
(192) 35°56.54′ N. lat., 121°33.27′ W. long.;
(193) 35°52.21′ N. lat., 121°32.46′ W. long.;
(194) 35°51.21′ N. lat., 121°30.94′ W. long.;
(195) 35°46.28′ N. lat., 121°30.29′ W. long.;
(196) 35°33.68′ N. lat., 121°20.09′ W. long.;
(197) 35°31.33′ N. lat., 121°15.22′ W. long.;
(198) 35°23.29′ N. lat., 121°11.41′ W. long.;
(199) 35°15.26′ N. lat., 121°04.49′ W. long.;
(200) 35°07.05′ N. lat., 121°00.26′ W. long.;
(201) 35°07.46′ N. lat., 120°57.10′ W. long.;
(202) 34°44.29′ N. lat., 120°54.28′ W. long.;
(203) 34°44.24′ N. lat., 120°57.69′ W. long.;
(204) 34°39.06′ N. lat., 120°55.01′ W. long.;
(205) 34°19.08′ N. lat., 120°31.21′ W. long.;
(206) 34°27.00′ N. lat., 120°42.61′ W. long.;
(207) 34°17.72′ N. lat., 120°19.26′ W. long.;
(208) 34°22.45′ N. lat., 120°12.81′ W. long.;
(209) 34°21.36′ N. lat., 119°54.88′ W. long.;
(210) 34°09.95′ N. lat., 119°46.18′ W. long.;
(211) 34°09.08′ N. lat., 119°57.53′ W. long.;
(212) 34°07.53′ N. lat., 120°06.35′ W. long.;
(213) 34°10.37′ N. lat., 120°18.40′ W. long.;
(214) 34°12.50′ N. lat., 120°18.40′ W. long.;
(215) 34°12.50′ N. lat., 120°24.96′ W. long.;
(216) 34°14.68′ N. lat., 120°29.48′ W. long.;
(217) 34°09.51′ N. lat., 120°38.32′ W. long.;
(218) 34°04.66′ N. lat., 120°36.29′ W. long.;
(219) 34°02.21′ N. lat., 120°36.29′ W. long.;
(220) 34°02.21′ N. lat., 120°34.65′ W. long.;
(221) 33°56.39′ N. lat., 120°28.47′ W. long.;
(222) 33°50.40′ N. lat., 120°10.00′ W. long.;
(223) 33°37.96′ N. lat., 120°00.08′ W. long.;
(224) 33°34.52′ N. lat., 119°51.84′ W. long.;
(225) 33°35.51′ N. lat., 119°48.49′ W. long.;
(226) 33°42.76′ N. lat., 119°47.77′ W. long.;
(227) 33°51.63′ N. lat., 119°53.00′ W. long.;
(228) 33°51.62′ N. lat., 119°48.00′ W. long.;
(229) 33°54.59′ N. lat., 119°48.00′ W. long.;
(230) 33°57.69′ N. lat., 119°31.00′ W. long.;
(231) 33°54.11′ N. lat., 119°31.00′ W. long.;
(232) 33°54.11′ N. lat., 119°26.00′ W. long.;
(233) 33°57.94′ N. lat., 119°26.00′ W. long.;
(234) 33°58.88′ N. lat., 119°20.06′ W. long.;
(235) 34°02.65′ N. lat., 119°15.11′ W. long.;
(236) 33°59.02′ N. lat., 119°02.99′ W. long.;
(237) 33°57.61′ N. lat., 118°42.07′ W. long.;
(238) 33°50.76′ N. lat., 118°37.98′ W. long.;
(239) 33°39.17′ N. lat., 118°18.47′ W. long.;
(240) 33°37.14′ N. lat., 118°18.39′ W. long.;
(241) 33°35.51′ N. lat., 118°18.03′ W. long.;
(242) 33°30.68′ N. lat., 118°10.35′ W. long.;
(243) 33°32.49′ N. lat., 117°51.85′ W. long.;
(244) 32°58.87′ N. lat., 117°20.36′ W. long.; and
(245) 32°35.56′ N. lat., 117°29.66′ W. long.

(m) * * *

(1) 48°14.71′ N. lat., 125°41.95′ W. long.;
(2) 48°13.00′ N. lat., 125°39.00′ W. long.;
(3) 48°10.00′ N. lat., 125°43.00′ W. long.;
(4) 48°08.50′ N. lat., 125°45.00′ W. long.;
(5) 48°06.00′ N. lat., 125°46.50′ W. long.;
(6) 48°03.50′ N. lat., 125°37.00′ W. long.;
(7) 48°01.50′ N. lat., 125°40.00′ W. long.;
(8) 47°57.00′ N. lat., 125°37.00′ W. long.;
(9) 47°55.20′ N. lat., 125°37.26′ W. long.;
(10) 47°54.02′ N. lat., 125°36.60′ W. long.;
(11) 47°53.70′ N. lat., 125°35.09′ W. long.;
(12) 47°54.16′ N. lat., 125°32.38′ W. long.;
(13) 47°55.50′ N. lat., 125°28.50′ W. long.;
(14) 47°58.00′ N. lat., 125°25.00′ W. long.;
(15) 48°00.50′ N. lat., 125°24.50′ W. long.;
(16) 48°03.50′ N. lat., 125°21.00′ W. long.;
(17) 48°02.00′ N. lat., 125°19.50′ W. long.;
(18) 48°00.00′ N. lat., 125°21.00′ W. long.;
(19) 47°58.00′ N. lat., 125°20.00′ W. long.;
(20) 47°58.00′ N. lat., 125°18.00′ W. long.;
(21) 47°52.00′ N. lat., 125°16.50′ W. long.;
(22) 47°46.00′ N. lat., 125°06.00′ W. long.;
(23) 47°44.50′ N. lat., 125°07.50′ W. long.;
(24) 47°42.00′ N. lat., 125°06.00′ W. long.;
(25) 47°37.96′ N. lat., 125°07.17′ W. long.;
(26) 47°28.00′ N. lat., 124°58.50′ W. long.;
(27) 47°28.88′ N. lat., 124°54.70′ W. long.;
(28) 47°27.70′ N. lat., 124°51.87′ W. long.;
(29) 47°24.84′ N. lat., 124°48.45′ W. long.;
(30) 47°21.76′ N. lat., 124°47.42′ W. long.;
(31) 47°18.84′ N. lat., 124°46.75′ W. long.;
(32) 47°19.82′ N. lat., 124°51.43′ W. long.;
(33) 47°18.13′ N. lat., 124°54.25′ W. long.;
(34) 47°13.50′ N. lat., 124°54.70′ W. long.;
(35) 47°15.00′ N. lat., 125°01.10′ W. long.;
(36) 47°08.77′ N. lat., 125°00.91′ W. long.;
(37) 47°05.80′ N. lat., 125°01.00′ W. long.;
(38) 47°03.34′ N. lat., 124°57.50′ W. long.;
(39) 47°01.00′ N. lat., 125°00.00′ W. long.;
(40) 46°55.00′ N. lat., 125°02.00′ W. long.;
(41) 46°53.32′ N. lat., 125°00.00′ W. long.;

(42) 46°51.55′ N. lat., 125°00.00′ W. long.;
(43) 46°50.80′ N. lat., 124°56.90′ W. long.;
(44) 46°47.00′ N. lat., 124°55.00′ W. long.;
(45) 46°38.17′ N. lat., 124°43.45′ W. long.;
(46) 46°34.00′ N. lat., 124°38.00′ W. long.;
(47) 46°30.50′ N. lat., 124°41.00′ W. long.;
(48) 46°33.00′ N. lat., 124°32.00′ W. long.;
(49) 46°29.00′ N. lat., 124°32.00′ W. long.;
(50) 46°20.00′ N. lat., 124°39.00′ W. long.;
(51) 46°18.16′ N. lat., 124°40.00′ W. long.;
(52) 46°16.00′ N. lat., 124°27.00′ W. long.;
(53) 46°16.00′ N. lat., 124°27.01′ W. long.;
(54) 46°15.00′ N. lat., 124°30.96′ W. long.;
(55) 46°13.17′ N. lat., 124°37.87′ W. long.;
(56) 46°13.17′ N. lat., 124°38.75′ W. long.;
(57) 46°10.50′ N. lat., 124°42.00′ W. long.;
(58) 46°06.21′ N. lat., 124°41.85′ W. long.;
(59) 46°03.02′ N. lat., 124°50.27′ W. long.;
(60) 45°57.00′ N. lat., 124°45.52′ W. long.;
(61) 45°46.85′ N. lat., 124°45.91′ W. long.;
(62) 45°46.00′ N. lat., 124°46.84′ W. long.;
(63) 45°45.81′ N. lat., 124°47.05′ W. long.;
(64) 45°44.87′ N. lat., 124°45.98′ W. long.;
(65) 45°43.44′ N. lat., 124°46.03′ W. long.;
(66) 45°35.82′ N. lat., 124°45.72′ W. long.;
(67) 45°35.70′ N. lat., 124°42.89′ W. long.;
(68) 45°24.45′ N. lat., 124°38.21′ W. long.;
(69) 45°11.68′ N. lat., 124°39.38′ W. long.;
(70) 45°03.83′ N. lat., 124°38.03′ W. long.;
(71) 44°57.94′ N. lat., 124°37.02′ W. long.;
(72) 44°44.28′ N. lat., 124°50.79′ W. long.;
(73) 44°32.63′ N. lat., 124°54.21′ W. long.;
(74) 44°23.36′ N. lat., 124°50.53′ W. long.;
(75) 44°13.30′ N. lat., 124°59.03′ W. long.;
(76) 43°57.85′ N. lat., 124°58.57′ W. long.;
(77) 43°50.12′ N. lat., 124°53.36′ W. long.;
(78) 43°49.53′ N. lat., 124°43.96′ W. long.;
(79) 43°42.76′ N. lat., 124°41.40′ W. long.;
(80) 43°24.00′ N. lat., 124°42.61′ W. long.;
(81) 43°20.83′ N. lat., 124°44.48′ W. long.;
(82) 43°19.74′ N. lat., 124°45.12′ W. long.;
(83) 43°19.62′ N. lat., 124°52.95′ W. long.;
(84) 43°17.41′ N. lat., 124°53.02′ W. long.;
(85) 42°56.41′ N. lat., 124°54.59′ W. long.;
(86) 42°53.82′ N. lat., 124°55.76′ W. long.;
(87) 42°53.54′ N. lat., 124°54.88′ W. long.;
(88) 42°50.00′ N. lat., 124°55.12′ W. long.;
(89) 42°49.26′ N. lat., 124°55.17′ W. long.;
(90) 42°46.74′ N. lat., 124°53.39′ W. long.;
(91) 42°43.76′ N. lat., 124°51.64′ W. long.;
(92) 42°45.41′ N. lat., 124°49.35′ W. long.;
(93) 42°43.92′ N. lat., 124°45.92′ W. long.;
(94) 42°40.50′ N. lat., 124°44.30′ W. long.;
(95) 42°38.84′ N. lat., 124°43.51′ W. long.;
(96) 42°34.78′ N. lat., 124°46.56′ W. long.;
(97) 42°31.47′ N. lat., 124°46.89′ W. long.;
(98) 42°31.59′ N. lat., 124°44.85′ W. long.;
(99) 42°31.12′ N. lat., 124°44.82′ W. long.;
(100) 42°28.48′ N. lat., 124°49.96′ W. long.;
(101) 42°26.28′ N. lat., 124°47.99′ W. long.;
(102) 42°19.58′ N. lat., 124°43.21′ W. long.;
(103) 42°13.75′ N. lat., 124°40.06′ W. long.;
(104) 42°05.12′ N. lat., 124°39.06′ W. long.;
(105) 42°00.00′ N. lat., 124°37.76′ W. long.;
(106) 41°47.93′ N. lat., 124°31.79′ W. long.;
(107) 41°21.35′ N. lat., 124°30.35′ W. long.;
(108) 41°07.11′ N. lat., 124°25.25′ W. long.;
(109) 40°57.37′ N. lat., 124°30.25′ W. long.;
(110) 40°48.77′ N. lat., 124°30.69′ W. long.;
(111) 40°41.03′ N. lat., 124°33.21′ W. long.;
(112) 40°37.40′ N. lat., 124°38.96′ W. long.;
(113) 40°33.70′ N. lat., 124°42.50′ W. long.;
(114) 40°31.31′ N. lat., 124°41.59′ W. long.;
(115) 40°30.00′ N. lat., 124°40.50′ W. long.;
(116) 40°25.00′ N. lat., 124°36.65′ W. long.;
(117) 40°22.42′ N. lat., 124°32.19′ W. long.;
(118) 40°17.17′ N. lat., 124°32.21′ W. long.;
(119) 40°18.68′ N. lat., 124°50.44′ W. long.;
(120) 40°13.55′ N. lat., 124°34.26′ W. long.;
(121) 40°10.00′ N. lat., 124°28.25′ W. long.;
(122) 40°06.72′ N. lat., 124°21.40′ W. long.;
(123) 40°01.63′ N. lat., 124°17.25′ W. long.;
(124) 40°00.68′ N. lat., 124°11.19′ W. long.;
(125) 39°59.09′ N. lat., 124°14.92′ W. long.;
(126) 39°56.44′ N. lat., 124°12.52′ W. long.;
(127) 39°54.98′ N. lat., 124°08.71′ W. long.;
(128) 39°52.60′ N. lat., 124°10.01′ W. long.;
(129) 39°37.37′ N. lat., 124°00.58′ W. long.;
(130) 39°32.41′ N. lat., 124°00.01′ W. long.;
(131) 39°05.40′ N. lat., 124°00.52′ W. long.;
(132) 39°04.32′ N. lat., 123°59.00′ W. long.;
(133) 38°58.02′ N. lat., 123°58.18′ W. long.;
(134) 38°57.50′ N. lat., 124°01.90′ W. long.;
(135) 38°50.27′ N. lat., 123°56.26′ W. long.;
(136) 38°46.73′ N. lat., 123°51.93′ W. long.;
(137) 38°44.64′ N. lat., 123°51.77′ W. long.;
(138) 38°32.97′ N. lat., 123°41.84′ W. long.;
(139) 38°14.56′ N. lat., 123°32.18′ W. long.;
(140) 38°13.85′ N. lat., 123°29.94′ W. long.;
(141) 38°11.88′ N. lat., 123°30.57′ W. long.;
(142) 38°08.72′ N. lat., 123°29.56′ W. long.;
(143) 38°05.62′ N. lat., 123°32.38′ W. long.;
(144) 38°01.90′ N. lat., 123°32.00′ W. long.;
(145) 38°00.00′ N. lat., 123°30.00′ W. long.;
(146) 37°58.07′ N. lat., 123°27.35′ W. long.;

(147) 37°54.97′ N. lat., 123°27.69′ W. long.;
(148) 37°51.32′ N. lat., 123°25.40′ W. long.;
(149) 37°43.82′ N. lat., 123°11.69′ W. long.;
(150) 37°35.67′ N. lat., 123°02.62′ W. long.;
(151) 37°11.00′ N. lat., 122°54.50′ W. long.;
(152) 37°07.00′ N. lat., 122°48.59′ W. long.;
(153) 36°59.99′ N. lat., 122°38.49′ W. long.;
(154) 36°56.64′ N. lat., 122°28.78′ W. long.;
(155) 36°58.93′ N. lat., 122°25.67′ W. long.;
(156) 36°56.19′ N. lat., 122°25.67′ W. long.;
(157) 36°57.09′ N. lat., 122°22.85′ W. long.;
(158) 36°54.95′ N. lat., 122°22.63′ W. long.;
(159) 36°52.25′ N. lat., 122°13.94′ W. long.;
(160) 36°46.94′ N. lat., 122°07.90′ W. long.;
(161) 36°46.86′ N. lat., 122°02.24′ W. long.;
(162) 36°43.73′ N. lat., 121°59.33′ W. long.;
(163) 36°38.93′ N. lat., 122°02.46′ W. long.;
(164) 36°30.77′ N. lat., 122°01.40′ W. long.;
(165) 36°23.78′ N. lat., 122°00.52′ W. long.;
(166) 36°19.98′ N. lat., 122°07.63′ W. long.;
(167) 36°15.36′ N. lat., 122°03.50′ W. long.;
(168) 36°09.47′ N. lat., 121°45.37′ W. long.;
(169) 36°06.42′ N. lat., 121°41.34′ W. long.;
(170) 36°00.00′ N. lat., 121°37.68′ W. long.;
(171) 35°52.25′ N. lat., 121°33.21′ W. long.;
(172) 35°51.09′ N. lat., 121°31.83′ W. long.;
(173) 35°46.47′ N. lat., 121°31.19′ W. long.;
(174) 35°33.97′ N. lat., 121°21.69′ W. long.;
(175) 35°30.94′ N. lat., 121°18.36′ W. long.;
(176) 35°23.08′ N. lat., 121°15.56′ W. long.;
(177) 35°13.67′ N. lat., 121°05.79′ W. long.;
(178) 35°06.77′ N. lat., 121°02.45′ W. long.;
(179) 34°53.32′ N. lat., 121°01.46′ W. long.;
(180) 34°49.36′ N. lat., 121°03.04′ W. long.;
(181) 34°44.12′ N. lat., 121°01.28′ W. long.;
(182) 34°32.38′ N. lat., 120°51.78′ W. long.;
(183) 34°27.00′ N. lat., 120°44.25′ W. long.;
(184) 34°17.93′ N. lat., 120°35.43′ W. long.;
(185) 34°16.02′ N. lat., 120°28.70′ W. long.;
(186) 34°09.84′ N. lat., 120°38.85′ W. long.;
(187) 34°03.22′ N. lat., 120°36.12′ W. long.;
(188) 33°55.98′ N. lat., 120°28.81′ W. long.;
(189) 33°49.88′ N. lat., 120°10.07′ W. long.;
(190) 33°37.75′ N. lat., 120°00.35′ W. long.;
(191) 33°33.91′ N. lat., 119°51.74′ W. long.;
(192) 33°35.07′ N. lat., 119°48.14′ W. long.;
(193) 33°42.60′ N. lat., 119°47.40′ W. long.;
(194) 33°53.25′ N. lat., 119°52.58′ W. long.;
(195) 33°57.48′ N. lat., 119°31.27′ W. long.;
(196) 33°55.47′ N. lat., 119°24.96′ W. long.;
(197) 33°57.60′ N. lat., 119°26.68′ W. long.;
(198) 33°58.68′ N. lat., 119°20.13′ W. long.;
(199) 34°02.02′ N. lat., 119°14.62′ W. long.;
(200) 33°58.73′ N. lat., 119°03.21′ W. long.;
(201) 33°57.33′ N. lat., 118°43.08′ W. long.;
(202) 33°50.71′ N. lat., 118°38.33′ W. long.;
(203) 33°39.27′ N. lat., 118°18.76′ W. long.;
(204) 33°35.16′ N. lat., 118°18.33′ W. long.;
(205) 33°28.82′ N. lat., 118°08.73′ W. long.;
(206) 33°31.44′ N. lat., 117°51.34′ W. long.;
(207) 32°58.76′ N. lat., 117°20.85′ W. long.; and
(208) 32°35.61′ N. lat., 117°30.15′ W. long.

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(r) * * *

(1) 48°14.71′ N. lat., 125°41.95′ W. long.;
(2) 48°13.00′ N. lat., 125°39.00′ W. long.;
(3) 48°10.00′ N. lat., 125°43.00′ W. long.;
(4) 48°08.50′ N. lat., 125°45.00′ W. long.;
(5) 48°06.00′ N. lat., 125°46.50′ W. long.;
(6) 48°03.50′ N. lat., 125°37.00′ W. long.;
(7) 48°01.50′ N. lat., 125°40.00′ W. long.;
(8) 47°57.00′ N. lat., 125°37.00′ W. long.;
(9) 47°55.50′ N. lat., 125°28.50′ W. long.;
(10) 47°58.00′ N. lat., 125°25.00′ W. long.;
(11) 48°00.50′ N. lat., 125°24.50′ W. long.;
(12) 48°03.50′ N. lat., 125°21.00′ W. long.;
(13) 48°02.00′ N. lat., 125°19.50′ W. long.;
(14) 48°00.00′ N. lat., 125°21.00′ W. long.;
(15) 47°58.00′ N. lat., 125°20.00′ W. long.;
(16) 47°58.00′ N. lat., 125°18.00′ W. long.;
(17) 47°52.00′ N. lat., 125°16.50′ W. long.;
(18) 47°46.00′ N. lat., 125°06.00′ W. long.;
(19) 47°44.50′ N. lat., 125°07.50′ W. long.;
(20) 47°42.00′ N. lat., 125°06.00′ W. long.;
(21) 47°37.96′ N. lat., 125°07.17′ W. long.;
(22) 47°28.00′ N. lat., 124°58.50′ W. long.;
(23) 47°28.88′ N. lat., 124°54.70′ W. long.;
(24) 47°27.70′ N. lat., 124°51.87′ W. long.;
(25) 47°24.84′ N. lat., 124°48.45′ W. long.;
(26) 47°21.76′ N. lat., 124°47.42′ W. long.;
(27) 47°18.84′ N. lat., 124°46.75′ W. long.;
(28) 47°19.82′ N. lat., 124°51.43′ W. long.;
(29) 47°18.13′ N. lat., 124°54.25′ W. long.;
(30) 47°13.50′ N. lat., 124°54.70′ W. long.;
(31) 47°15.00′ N. lat., 125°01.10′ W. long.;
(32) 47°08.77′ N. lat., 125°00.91′ W. long.;
(33) 47°05.80′ N. lat., 125°01.00′ W. long.;
(34) 47°03.34′ N. lat., 124°57.49′ W. long.;
(35) 47°01.00′ N. lat., 125°00.00′ W. long.;
(36) 46°55.00′ N. lat., 125°02.00′ W. long.;
(37) 46°53.32′ N. lat., 125°00.00′ W. long.;
(38) 46°51.55′ N. lat., 125°00.00′ W. long.;
(39) 46°50.80′ N. lat., 124°56.90′ W. long.;
(40) 46°47.00′ N. lat., 124°55.00′ W. long.;
(41) 46°38.17′ N. lat., 124°43.45′ W. long.;

(42) 46°34.00′ N. lat., 124°38.00′ W. long.;
(43) 46°30.50′ N. lat., 124°41.00′ W. long.;
(44) 46°33.00′ N. lat., 124°32.00′ W. long.;
(45) 46°29.00′ N. lat., 124°32.00′ W. long.;
(46) 46°20.00′ N. lat., 124°39.00′ W. long.;
(47) 46°18.16′ N. lat., 124°40.00′ W. long.;
(48) 46°16.00′ N. lat., 124°27.00′ W. long.;
(49) 46°15.00′ N. lat., 124°30.96′ W. long.;
(50) 46°13.17′ N. lat., 124°38.76′ W. long.;
(51) 46°10.51′ N. lat., 124°41.99′ W. long.;
(52) 46°06.24′ N. lat., 124°41.81′ W. long.;
(53) 46°03.04′ N. lat., 124°50.26′ W. long.;
(54) 45°56.99′ N. lat., 124°45.45′ W. long.;
(55) 45°49.94′ N. lat., 124°45.75′ W. long.;
(56) 45°49.94′ N. lat., 124°42.33′ W. long.;
(57) 45°46.00′ N. lat., 124°42.19′ W. long.;
(58) 45°45.73′ N. lat., 124°42.18′ W. long.;
(59) 45°45.73′ N. lat., 124°43.82′ W. long.;
(60) 45°41.94′ N. lat., 124°43.61′ W. long.;
(61) 45°41.58′ N. lat., 124°39.86′ W. long.;
(62) 45°38.45′ N. lat., 124°39.94′ W. long.;
(63) 45°35.75′ N. lat., 124°42.91′ W. long.;
(64) 45°24.49′ N. lat., 124°38.20′ W. long.;
(65) 45°14.43′ N. lat., 124°39.05′ W. long.;
(66) 45°14.30′ N. lat., 124°34.19′ W. long.;
(67) 45°08.98′ N. lat., 124°34.26′ W. long.;
(68) 45°09.02′ N. lat., 124°38.81′ W. long.;
(69) 45°03.83′ N. lat., 124°37.95′ W. long.;
(70) 44°57.98′ N. lat., 124°36.98′ W. long.;
(71) 44°56.62′ N. lat., 124°38.32′ W. long.;
(72) 44°50.82′ N. lat., 124°35.52′ W. long.;
(73) 44°46.89′ N. lat., 124°38.32′ W. long.;
(74) 44°50.78′ N. lat., 124°44.24′ W. long.;
(75) 44°44.27′ N. lat., 124°50.78′ W. long.;
(76) 44°32.63′ N. lat., 124°54.24′ W. long.;
(77) 44°23.25′ N. lat., 124°49.78′ W. long.;
(78) 44°13.16′ N. lat., 124°58.81′ W. long.;
(79) 43°57.88′ N. lat., 124°58.25′ W. long.;
(80) 43°56.89′ N. lat., 124°57.33′ W. long.;
(81) 43°53.41′ N. lat., 124°51.95′ W. long.;
(82) 43°51.56′ N. lat., 124°47.38′ W. long.;
(83) 43°51.49′ N. lat., 124°37.77′ W. long.;
(84) 43°48.02′ N. lat., 124°43.31′ W. long.;
(85) 43°42.77′ N. lat., 124°41.39′ W. long.;
(86) 43°24.09′ N. lat., 124°42.57′ W. long.;
(87) 43°20.83′ N. lat., 124°44.45′ W. long.;
(88) 43°19.73′ N. lat., 124°45.09′ W. long.;
(89) 43°15.98′ N. lat., 124°47.76′ W. long.;
(90) 43°04.14′ N. lat., 124°52.55′ W. long.;
(91) 43°04.00′ N. lat., 124°53.88′ W. long.;
(92) 42°54.69′ N. lat., 124°54.54′ W. long.;
(93) 42°50.00′ N. lat., 124°51.91′ W. long.;
(94) 42°45.46′ N. lat., 124°49.37′ W. long.;
(95) 42°43.91′ N. lat., 124°45.90′ W. long.;
(96) 42°40.50′ N. lat., 124°44.19′ W. long.;
(97) 42°38.84′ N. lat., 124°43.36′ W. long.;
(98) 42°34.82′ N. lat., 124°46.56′ W. long.;
(99) 42°31.57′ N. lat., 124°46.86′ W. long.;
(100) 42°30.98′ N. lat., 124°44.27′ W. long.;
(101) 42°29.21′ N. lat., 124°46.93′ W. long.;
(102) 42°28.52′ N. lat., 124°49.40′ W. long.;
(103) 42°26.06′ N. lat., 124°46.61′ W. long.;
(104) 42°21.82′ N. lat., 124°43.76′ W. long.;
(105) 42°17.47′ N. lat., 124°38.89′ W. long.;
(106) 42°13.67′ N. lat., 124°37.51′ W. long.;
(107) 42°13.76′ N. lat., 124°40.03′ W. long.;
(108) 42°05.12′ N. lat., 124°39.06′ W. long.;
(109) 42°02.67′ N. lat., 124°38.41′ W. long.;
(110) 42°02.67′ N. lat., 124°35.95′ W. long.;
(111) 42°00.00′ N. lat., 124°36.83′ W. long.;
(112) 41°47.79′ N. lat., 124°29.48′ W. long.;
(113) 41°21.01′ N. lat., 124°29.01′ W. long.;
(114) 41°13.50′ N. lat., 124°24.40′ W. long.;
(115) 41°11.00′ N. lat., 124°22.99′ W. long.;
(116) 41°06.69′ N. lat., 124°23.30′ W. long.;
(117) 40°54.73′ N. lat., 124°28.15′ W. long.;
(118) 40°53.95′ N. lat., 124°26.04′ W. long.;
(119) 40°50.27′ N. lat., 124°26.20′ W. long.;
(120) 40°44.49′ N. lat., 124°30.81′ W. long.;
(121) 40°40.63′ N. lat., 124°32.14′ W. long.;
(122) 40°38.96′ N. lat., 124°30.04′ W. long.;
(123) 40°35.67′ N. lat., 124°30.43′ W. long.;
(124) 40°37.41′ N. lat., 124°37.06′ W. long.;
(125) 40°36.09′ N. lat., 124°40.11′ W. long.;
(126) 40°31.35′ N. lat., 124°40.98′ W. long.;
(127) 40°30.00′ N. lat., 124°37.48′ W. long.;
(128) 40°27.34′ N. lat., 124°37.28′ W. long.;
(129) 40°25.01′ N. lat., 124°36.36′ W. long.;
(130) 40°22.28′ N. lat., 124°31.83′ W. long.;
(131) 40°13.68′ N. lat., 124°33.10′ W. long.;
(132) 40°10.00′ N. lat., 124°24.55′ W. long.;
(133) 40°06.45′ N. lat., 124°19.24′ W. long.;
(134) 40°07.08′ N. lat., 124°17.80′ W. long.;
(135) 40°05.55′ N. lat., 124°18.11′ W. long.;
(136) 40°04.74′ N. lat., 124°18.11′ W. long.;
(137) 40°02.35′ N. lat., 124°16.53′ W. long.;
(138) 40°01.13′ N. lat., 124°12.98′ W. long.;
(139) 40°01.52′ N. lat., 124°09.83′ W. long.;
(140) 39°58.54′ N. lat., 124°12.43′ W. long.;
(141) 39°55.72′ N. lat., 124°07.44′ W. long.;
(142) 39°42.64′ N. lat., 124°02.52′ W. long.;
(143) 39°35.96′ N. lat., 123°59.47′ W. long.;
(144) 39°34.61′ N. lat., 123°59.58′ W. long.;
(145) 39°33.79′ N. lat., 123°56.77′ W. long.;
(146) 39°33.03′ N. lat., 123°57.06′ W. long.;

(147) 39°32.21′ N. lat., 123°59.12′ W. long.;
(148) 39°07.81′ N. lat., 123°59.06′ W. long.;
(149) 38°57.50′ N. lat., 123°57.25′ W. long.;
(150) 38°52.26′ N. lat., 123°56.18′ W. long.;
(151) 38°50.21′ N. lat., 123°55.48′ W. long.;
(152) 38°46.81′ N. lat., 123°51.49′ W. long.;
(153) 38°45.29′ N. lat., 123°51.55′ W. long.;
(154) 38°42.76′ N. lat., 123°49.73′ W. long.;
(155) 38°41.26′ N. lat., 123°47.28′ W. long.;
(156) 38°35.75′ N. lat., 123°43.76′ W. long.;
(157) 38°34.93′ N. lat., 123°42.46′ W. long.;
(158) 38°19.95′ N. lat., 123°32.90′ W. long.;
(159) 38°14.38′ N. lat., 123°25.51′ W. long.;
(160) 38°09.39′ N. lat., 123°24.39′ W. long.;
(161) 38°10.18′ N. lat., 123°27.11′ W. long.;
(162) 38°04.64′ N. lat., 123°31.97′ W. long.;
(163) 38°02.06′ N. lat., 123°31.26′ W. long.;
(164) 38°00.00′ N. lat., 123°29.64′ W. long.;
(165) 37°58.19′ N. lat., 123°27.40′ W. long.;
(166) 37°50.62′ N. lat., 123°24.51′ W. long.;
(167) 37°43.82′ N. lat., 123°11.69′ W. long.;
(168) 37°35.67′ N. lat., 123°02.62′ W. long.;
(169) 37°23.53′ N. lat., 122°58.65′ W. long.;
(170) 37°23.23′ N. lat., 122°53.78′ W. long.;
(171) 37°13.97′ N. lat., 122°49.91′ W. long.;
(172) 37°11.00′ N. lat., 122°45.61′ W. long.;
(173) 37°07.00′ N. lat., 122°44.76′ W. long.;
(174) 36°59.99′ N. lat., 122°38.49′ W. long.;
(175) 36°56.64′ N. lat., 122°28.78′ W. long.;
(176) 36°58.93′ N. lat., 122°25.67′ W. long.;
(177) 36°56.19′ N. lat., 122°25.67′ W. long.;
(178) 36°57.09′ N. lat., 122°22.85′ W. long.;
(179) 36°54.95′ N. lat., 122°22.63′ W. long.;
(180) 36°52.25′ N. lat., 122°13.94′ W. long.;
(181) 36°46.94′ N. lat., 122°07.90′ W. long.;
(182) 36°47.12′ N. lat., 122°03.99′ W. long.;
(183) 36°23.87′ N. lat., 122°00.00′ W. long.;
(184) 36°22.17′ N. lat., 122°01.19′ W. long.;
(185) 36°19.61′ N. lat., 122°06.29′ W. long.;
(186) 36°14.73′ N. lat., 122°01.55′ W. long.;
(187) 36°09.47′ N. lat., 121°45.37′ W. long.;
(188) 36°06.42′ N. lat., 121°41.34′ W. long.;
(189) 36°00.07′ N. lat., 121°37.68′ W. long.;
(190) 36°00.00′ N. lat., 121°37.66′ W. long.;
(191) 35°52.25′ N. lat., 121°33.21′ W. long.;
(192) 35°51.09′ N. lat., 121°31.83′ W. long.;
(193) 35°46.47′ N. lat., 121°31.19′ W. long.;
(194) 35°33.97′ N. lat., 121°21.69′ W. long.;
(195) 35°30.94′ N. lat., 121°18.36′ W. long.;
(196) 35°23.08′ N. lat., 121°15.56′ W. long.;
(197) 35°13.67′ N. lat., 121°05.79′ W. long.;
(198) 35°06.77′ N. lat., 121°02.45′ W. long.;
(199) 35°07.46′ N. lat., 120°57.10′ W. long.;
(200) 34°44.29′ N. lat., 120°54.28′ W. long.;
(201) 34°44.24′ N. lat., 120°57.62′ W. long.;
(202) 34°41.65′ N. lat., 120°59.54′ W. long.;
(203) 34°27.00′ N. lat., 120°44.25′ W. long.;
(204) 34°17.97′ N. lat., 120°35.54′ W. long.;
(205) 34°16.02′ N. lat., 120°28.70′ W. long.;
(206) 34°09.84′ N. lat., 120°38.85′ W. long.;
(207) 34°02.21′ N. lat., 120°36.23′ W. long.;
(208) 33°55.98′ N. lat., 120°28.81′ W. long.;
(209) 33°49.88′ N. lat., 120°10.07′ W. long.;
(210) 33°37.75′ N. lat., 120°00.35′ W. long.;
(211) 33°33.91′ N. lat., 119°51.74′ W. long.;
(212) 33°35.07′ N. lat., 119°48.14′ W. long.;
(213) 33°42.60′ N. lat., 119°47.40′ W. long.;
(214) 33°51.63′ N. lat., 119°52.35′ W. long.;
(215) 33°51.62′ N. lat., 119°47.94′ W. long.;
(216) 33°54.29′ N. lat., 119°47.94′ W. long.;
(217) 33°57.52′ N. lat., 119°30.94′ W. long.;
(218) 33°54.11′ N. lat., 119°30.94′ W. long.;
(219) 33°54.11′ N. lat., 119°25.94′ W. long.;
(220) 33°57.74′ N. lat., 119°25.94′ W. long.;
(221) 33°58.68′ N. lat., 119°20.13′ W. long.;
(222) 34°02.02′ N. lat., 119°14.62′ W. long.;
(223) 33°58.73′ N. lat., 119°03.21′ W. long.;
(224) 33°57.33′ N. lat., 118°43.08′ W. long.;
(225) 33°50.71′ N. lat., 118°38.33′ W. long.;
(226) 33°39.27′ N. lat., 118°18.76′ W. long.;
(227) 33°35.16′ N. lat., 118°18.33′ W. long.;
(228) 33°28.82′ N. lat., 118°08.73′ W. long.;
(229) 33°31.44′ N. lat., 117°51.34′ W. long.;
(230) 32°58.76′ N. lat., 117°20.85′ W. long.; and
(231) 32°35.61′ N. lat., 117°30.15′ W. long.

■ 20. In part 660, subpart G, Tables 1–5 are revised to read as follows:

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Table 1a. To Part 660, Subpart G-2009, Specifications of ABCs, OYs, and HGs, by Management Area (weights in metric tons).

Species	ABC Specifications						OY b/	HG b/	
	ABC Contributions by Area					ABC			
	Vancouver a/	Columbia	Eureka	Monterey	Conception			Commercial	Recreational
ROUNDFISH:									
Lingcod c/ N of 42° N. lat.	4,473					5,278	5,278		
S of 42° N. lat.			805						
Pacific Cod e/	3,200		d/			3,200	1,600	1,200	
Pacific Whiting f/	f/					f/	134,773 - 404,318		
Sablefish g/ N of 36° N. lat.	9,914					9,914	7,052	6,347	
S of 36° N. lat.							1,371	1,371	
Cabezon h/ S of 42° N. lat.	d/		81		25	106	69		
FLATFISH:									
Dover sole i/	29,453					29,453	16,500		
English sole j/	14,326					14,326	14,326	-	
Petrale sole k/	1,509		1,302			2,811	2,433	-	
Arrowtooth flounder l/	11,267					11,267	11,267	-	
Starry Flounder m/	1,509					1,509	1,004		
Other flatfish n/	6,731					6,731	4,884	-	
ROCKFISH:									
Pacific Ocean Perch o/	1,160					1,160	189	187	

Species	ABC Specifications						OY b/	HG b/	
	ABC Contributions by Area					ABC			
	Vancouver a/	Columbia	Eureka	Monterey	Conception			Commercial	Recreational
Shortbelly p/	6,950					6,950	6,950		
Widow q/	7,728					7,728	522	460.4	7.2
Canary r/	937					937	105	42.3	43.8
Chilipepper s/	d/			3,037		3,037	2,885	2,885	
Bocaccio t/	d/			793		793	288	206.4	67.3
Splitnose u/	d/			615		615	461		
Yellowtail v/	4,562			d/		4,562	4,562		
Shortspine thornyhead w/ N of 34°27' N. lat.	2,437					2,437	1,608	1,608	
S of 34°27' N. lat.							414		
Longspine thornyhead x/ N of 34°27' N. lat.	3,766					3,766	2,231		
S of 34°27' N. lat.							395		
Cowcod y/	d/			13		13	4		
Darkblotched z/	437					437	285	282.05	
Yelloweye aa/						31	17	3.1	8
California Scorpionfish bb/					175	175	175		
Black cc/ N of 46°16' N. lat.	490					490	490		
S of 46°16' N. lat.			1,469			1,469	1,000		

Species	ABC Specifications						OY b/	HG b/	
	ABC Contributions by Area					ABC			
	Vancouver a/	Columbia	Eureka	Monterey	Conception			Commercial	Recreational
Minor Rockfish dd/ N of 40° 10' N. lat.	3,678			--		3,678	2,283		
Minor Rockfish ee/ S of 40° 10' N. lat.	--			3,384		3,384	1,990		
Remaining	1,640			1,318					
bank ff/	d/			350					
blackgill gg/	d/			292					
blue	28			213					
bocaccio north	318			--					
chilipepper north	32			--					
redstripe	576			d/					
sharpchin	307			45					
silvergrey	38			d/					
splitnose north	242			--					
yellowmouth	99			d/					
yellowtail	--			116					
gopher	d/			302					
Other rockfish hh/	2,038			2,066					
SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS/KELP GREENLING:									
Longnose Skate ii/	3,428					3,428	1,349		
Other fish jj/	11,200					11,200	5,600		

Table 1b. To Part 660, Subpart G-2009, Harvest Guidelines for Minor Rockfish by Depth Sub-groups (weights in metric tons).

Species	Total Catch ABC	Total Catch OY	Recreational HG	Commercial HG	Limited Entry HG		Open Access HG	
					Mt	%	Mt	%
Minor Rockfish dd/ N of 40°10' N. lat.	3,678	2,283	--	--	--	91.7	--	8.3
Nearshore		155	--	--				
Shelf		968	--	--				
Slope		1,160	--	--				
Minor Rockfish ee/ S of 40°10' N. lat.	3,384	1,990	--	--	--	55.7	--	44.3
Nearshore		650	--	--				
Shelf		714	--	--				
Slope		626	--	--				

Table 1c. To Part 660, Subpart G-2009, Open Access and Limited Entry Allocations by Species or Species Group. (Weights in Metric Tons)

Species	Commercial Total Catch HGs	Commercial Total Catch HGs			
		Limited Entry		Open Access	
		Mt	%	Mt	%
Lingcod N of 42° N. lat.	--	--	81.0	--	19.0
S of 42° N. lat.					
Sablefish kk/ N of 36° N. lat.	6,347	5,750	90.6	597	9.4
Widow ll/	460.4	--	97.0	--	3.0
Canary ll/	42.3	--	87.7	--	12.3
Chilipepper	2,885	1,607	55.7	1,278	44.3
Bocaccio ll/	206.4	--	55.7	--	44.3
Yellowtail	--	--	91.7	--	8.3
Shortspine thornyhead N of 34°27' N. lat.	1,608	1,603	99.7	5	0.27
Minor Rockfish N of 40°10' N. lat.	--	--	91.7	--	8.3
S of 40°10' N. lat.	--	--	55.7	--	44.3

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[a/] ABCs apply only to the U.S. portion of the Vancouver area.

[b/] Optimum Yields (OYs) and Harvest Guidelines (HGs) are specified as total catch values. A harvest guideline is a specified harvest target and not a quota. The use of this term may differ from the use of similar terms in state regulation.

[c/] Lingcod—A coastwide lingcod stock assessment was prepared in 2005. The lingcod biomass was estimated to be at 64 percent of its unfished biomass coastwide in 2005. The ABC of 5,278 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. Because the stock is above $B_{40\%}$ coastwide, the coastwide OY was set equal to the ABC. The tribal harvest guideline is 250 mt.

[d/] ''Other species''—these species are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, these species are included in the harvest guidelines of ''other fish'', ''other rockfish'' or ''remaining rockfish''.

[e/] Pacific Cod—The 3,200 mt ABC for the Vancouver-Columbia area is based on historical landings data. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment. A tribal harvest guideline of 400 mt is deducted from the OY resulting in a commercial OY of 1,200 mt.

[f/] Pacific whiting—The most recent stock assessment was prepared in February 2008. The stock assessment base model estimated the Pacific whiting biomass to be at 42.6 percent (50th percentile estimate of depletion) of its unfished biomass in 2008. Final adoption of the Pacific whiting ABC and OY have been deferred until the Council's March 2009 meeting. Therefore, table 1a does not contain an ABC value, but does contain the OY range considered in the DEIS. It is anticipated that an new assessment will be available in early 2009 and the results will be used to set the 2009 ABC and OY. The final ABC and OY will be published is a separate action following the Council's recommendation at its March 2009 meeting.

[g/] Sablefish—A coastwide sablefish stock assessment was prepared in 2007. The sablefish biomass was estimated to be at 38.3 percent of its unfished biomass in 2007. The coastwide ABC of 9,914 mt was based on the new stock assessment with a F_{MSY} proxy of $F_{45\%}$. The 40–10 harvest policy was applied to the ABC then apportion between the northern and southern areas with 72 percent going to the area north of 36* N. lat. and 28 percent going to the area south of 36* N. lat. The OY for the area north of 36* N. lat. is 7,052 mt. When establishing the OY for the area south of 36* N. lat. a 50 percent reduction was made resulting in a Conception area OY of 1,371 mt. The Coastwide OY of 8,423 mt is the sum of the northern and southern area OYs. The tribal allocation for the area north of 36* N. lat. is 705 mt (10 percent of the OY north of 36* N. lat.), which is further reduced by 1.6 percent (11 mt) to account for discard mortality. The tribal landed catch value is 694 mt.

[h/] Cabezon south of 42* N. lat. was assessed in 2005. The Cabezon stock was estimated to be at 40 percent of its unfished biomass north of 34* 27′ N. lat. and 28 percent of its unfished biomass south of 34* 27′ N. lat. in 2005. The ABC of 106 mt is based on the 2005 stock assessment with a harvest rate proxy of $F_{45\%}$. The OY of 69 mt is consistent with the application of a 60–20 harvest rate policy specified in the California Nearshore Fishery Management Plan.

[i/] Dover sole north of 34* 27′ N. lat. was assessed in 2005. The Dover sole biomass was estimated to be at 59.8 percent of its unfished biomass in 2005 and was projected to be increasing. The ABC of 29,453 mt is based on the results of the 2005 assessment with an F_{MSY} proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. The OY of 16,500 mt is less than the ABC. The OY is set at the MSY harvest level which is considerably larger than the coastwide catches in any recent years.

[j/] A coastwide English sole stock assessment was prepared in 2005 and updated in 2007. The stock was estimated to be at 116 percent of its unfished biomass in 2007. The stock biomass is believed to be declining. The ABC of 14,326 mt is based on the results of the 2007 assessment update with an F_{MSY} proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$, the OY was set equal to the ABC.

[k/] A petrale sole stock assessment was prepared for 2005. In 2005 the petrale sole stock was estimated to be at 32 percent of its unfished biomass coastwide (34 percent in the northern assessment area and 29 percent of in the southern assessment area). The ABC of 2,811 mt is based on the 2005 stock assessment with a $F_{40\%}$ F_{MSY} proxy. To derive the OY, the 40–10 harvest policy was applied to the ABC for both the northern and southern assessment areas. As a precautionary measure, an additional 25 percent reduction was made in the OY contribution for the southern area due assessment uncertainty. The coastwide OY is 2,433 mt in 2009.

[l/] Arrowtooth flounder was assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. Because the stock is above $B_{40\%}$, the OY is set equal to the ABC.

[m/] Starry Flounder was assessed for the first time in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. However, the stock was projected to decline below 40 percent in both the northern and southern areas after 2008. The starry flounder assessment was considered to be a data-poor assessment relative to other groundfish assessments. For 2009, the coastwide ABC of 1,509 mt is based on the 2005 assessment with a F_{MSY} proxy of $F_{40\%}$. To derive the OY (1,004 mt), the 40–10 harvest policy was applied to the ABC for both the northern and southern assessment areas then an additional 25 percent reduction was made due to assessment uncertainty.

[n/] ''Other flatfish'' are those flatfish species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. The other flatfish ABC is based on historical catch levels. The ABC of 6,731 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981–2003 period and on the average landings from the 1994–1998 period for the remaining other flatfish species. The OY of 4,884 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species.

[o/] A POP stock assessment was prepared in 2005 and was updated in 2007. The stock assessment update estimated the stock to be at 27.5 percent of its unfished biomass in 2007. The ABC of 1,160 mt for the Vancouver and Columbia areas is based on the 2007 stock assessment update with an F_{MSY} proxy of $F_{50\%}$. The OY of 189 mt is based on a rebuilding plan with a target year to rebuild of 2017 and an SPR harvest rate of 86.4 percent. The OY is reduced by 2.0 mt for the amount anticipated to be taken during research activity and 0.14 mt for the amount expected to be taken during EFP fishing.

[p/] Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. To understand the potential environmental determinants of fluctuations in the recruitment and abundance of an unexploited rockfish population in the California Current ecosystem, a non-quantitative assessment was conducted in 2007. The results of the assessment indicated the shortbelly stock was healthy with an estimated spawning stock biomass at 67 percent of its unfished biomass in 2005. The ABC and OY are being set at 6,950 mt which is 50 percent of the 2008 ABC and OY values. The stock is expected to remain at its current equilibrium with these harvest specifications.

[q/] Widow rockfish was assessed in 2005 and an update was prepared in 2007. The stock assessment update estimated the stock to be at 36.2 percent of its unfished biomass in 2006. The ABC of 7,728 mt is based on the stock assessment update with an $F_{50\%}$ F_{MSY} proxy. The OY of 522 mt is based on a rebuilding plan with a target year to rebuild of 2015 and an SPR harvest rate of 95 percent. To derive the commercial harvest guideline of 460.4 mt the OY is reduced by 1.1 mt for the amount anticipated to be taken during research activity, 45.5 mt for the tribal set-aside, 7.2 mt the amount estimated to be taken in the recreational fisheries, 0.4 mt for the amount expected to be taken incidentally in non-groundfish fisheries, and 7.4 mt for the amount projected to be taken during EFP fishing. The following sector specific bycatch limits will be established for the Pacific whiting fishery: 153.0 mt for catcher/processors, 108.0 mt for motherships, and 189.0 mt for shore-based.

[r/] Canary rockfish—A canary rockfish stock assessment was completed in 2007 and the stock was estimated to be at 32.7 percent of its unfished biomass coastwide in 2007. The coastwide ABC of 937 mt based on the 2007 rebuilding plan. The OY of 105 mt is based on a rebuilding plan with a target year to rebuild of 2021 and a SPR harvest rate of 88.7 percent. To derive the commercial harvest guideline of 42.3 mt, the OY is reduced by 8.0 mt for the amount anticipated to be taken during research activity, 7.3 mt the tribal set-aside, 43.8 mt the amount estimated to be taken in the recreational fisheries, 0.9 mt for the amount expected to be taken incidentally in non-groundfish fisheries, and 2.7 mt for

the amount expected to be taken during EFP fishing. The following harvest guidelines are being specified for catch sharing in 2009: 19.7 mt for limited entry Non-Whiting Trawl, 18.0 mt for limited entry Whiting Trawl, 2.2 mt for limited entry fixed gear, 2.5 mt for directed open access, 4.9 mt for Washington recreational, 16.0 mt for Oregon recreational, and 22.9 mt for California recreational.

[s/] Chilipepper rockfish was assessed in 2007 and the stock was estimated to be at 71 percent of its unfished biomass coastwide in 2007. The ABC of 3,037 mt is based on a F_{MSY} proxy of $F_{50\%}$. Because the unfished biomass is estimated to be above 40 percent the unfished biomass, the default OY could be set equal to the ABC. However, the OY of 2,885 mt was the ABC reduced by 5 percent as a precautionary measure for uncertainty in the stock assessment. Open access is allocated 44.3 percent (1,278 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,607 mt) of the commercial HG.

[t/] A bocaccio stock assessment and a rebuilding analysis were prepared in 2007. The bocaccio stock was estimated to be at 13.8 percent of its unfished biomass in 2007. The ABC of 793 mt for the Monterey-Conception area is based on the new assessment with an F_{MSY} proxy of $F_{50\%}$. The OY of 288 mt is based on a rebuilding plan with a target year to rebuild of 2026 and a SPR harvest rate of 77.7 percent. To derive the commercial harvest guideline of 206.4 mt, the OY is reduced by 2.0 mt for the amount anticipated to be taken during research activity, 67.3 mt for the amount estimated to be taken in the recreational fisheries, 1.3 mt for the amount expected to be taken incidentally in non-groundfish fisheries, and 11.0 mt for the amount expected to be taken during EFP fishing.

[u/] Splitnose rockfish—The ABC is 615 mt in the Monterey-Conception area. The 461 mt OY for the area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. In the north (Vancouver, Columbia and Eureka areas), splitnose is included within the minor slope rockfish OY. Because the harvest assumptions used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2009 was considered to be conservative and based on the best available data.

[v/] Yellowtail rockfish—A yellowtail rockfish stock assessment was prepared in 2005 for the Vancouver, Columbia, Eureka areas. Yellowtail rockfish was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 4,562 mt is based on the 2005 stock assessment with the F_{MSY} proxy of $F_{50\%}$. The OY of 4,562 mt was set equal to the ABC, because the stock is above the precautionary threshold of $B_{40\%}$.

[w/] Shortspine thornyhead was assessed in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. The ABC of 2,437 mt is based on a $F_{50\%}$ F_{MSY} proxy. For that portion of the stock (66 percent of the biomass) north of Point Conception (34°27′ N. lat.), the OY of 1,608 mt was set at equal to the ABC because the stock is estimated to be above the precautionary threshold. For that portion of the stock south of 34°27′ N. lat.(34 percent of the biomass), the OY of 414 mt was the portion of the ABC for the area reduced by 50 percent as a precautionary adjustment due to the short duration and amount of survey data for that area.

[x/] Longspine thornyhead was assessed coastwide in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. The coastwide ABC of 3,766 mt is based on a $F_{50\%}$ F_{MSY} proxy. The OY is set equal to the ABC because the stock is above the precautionary threshold. Separate OYs are being established for the areas north and south of 34°27′ N. lat. (Point Conception). The OY of 2,231 mt for that portion of the stock in the northern area (79 percent) the ABC reduced by 25 percent as a precautionary adjustment. For that portion of the stock in the south of 34°27′ N. lat. (21 percent), the OY of 395 mt was the portion of the ABC for the area reduced by 50 percent as a precautionary adjustment due to the short duration and amount of survey data for that area.

[y/] Cowcod in the Conception area was assessed in 2007 and the stock was estimated to be between 3.4 to 16.3 percent of its unfished biomass. The ABC for the area south of 36°N. lat., the Conception and Monterey areas, is 13 mt and is based on the 2007 rebuilding analysis in which the Conception area stock assessment projection was doubled to account for both areas. A single OY of 4 mt is being set for both areas. The OY of 4 mt is based on a rebuilding plan with a target year to rebuild of 2072 and an SPR rate of 82.1 percent. The amount anticipated to be taken during research activity is 0.2 mt and the amount expected to be taken during EFP activity is 0.24 mt.

[z/] Darkblotched rockfish was assessed in 2007 and a rebuilding analysis was prepared. The new stock assessment estimated the stock to be at 22.4 percent of its unfished biomass in 2007. The ABC is projected to be 437 mt and is based on the 2007 stock assessment with an F_{MSY} proxy of $F_{50\%}$. The OY of 285 mt is based on a rebuilding plan with a target year to rebuild of 2028 and an SPR harvest rate of 62.1 percent. The commercial OY of 282.05 mt is the OY reduced by 2.0 mt for the amount anticipated to be taken during research activity and 0.95 mt for the amount projected to be taken during EFP activity.

[aa/] Yelloweye rockfish was fully assessed in 2006 and an assessment update was completed in 2007. The 2007 stock assessment update estimated the spawning stock biomass in 2006 to be at 14 percent of its unfished biomass coastwide. The 31 mt coastwide ABC was derived from the base model in the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The 17 mt OY is based on a rebuilding plan with a target year to rebuild of 2084 and an SPR harvest rate of 66.3 percent in 2009 and 2010 and an SPR harvest rate of 71.9 percent for 2011 and beyond. The OY is reduced by 2.8 mt for the amount anticipated to be taken during research activity, 2.3 mt the amount estimated to be taken in the tribal fisheries and 0.3 mt for the amount expected to be taken incidentally in non-groundfish fisheries. The catch sharing harvest guidelines for yelloweye rockfish in 2009 and 2010 are: limited entry non whiting trawl 0.6 mt, limited entry whiting 0.0 mt, limited entry fixed gear 1.4 mt, directed open access 1.1 mt, Washington recreational 2.7 mt, Oregon recreational 2.4 mt, California recreational 2.8 mt, and 0.3 mt for exempted fishing.

[bb/] California Scorpionfish south of 34°27′ N. lat. was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 175 mt is based on the new assessment with a harvest rate proxy of $F_{50\%}$. Because the stock is above $B_{40\%}$ coastwide, the OY is set equal to the ABC.

[cc/] New assessments were prepared for black rockfish south of 45*56.00 N. lat. (Cape Falcon, Oregon) and for black rockfish north of Cape Falcon. The ABC for the area north of 46*16′ N. lat. (Washington) is 490 mt (97 percent) of the 505 mt ABC contribution from the northern assessment area. The ABC for the area south of 46*16′ N. lat. (Oregon and California) is 1,469 mt which is the sum of a contribution of 15 mt (3 percent) from the northern area assessment, and 1,454 mt from the southern area assessment. The ABCs were based on the results of the new assessment and derived using an F_{MSY} proxy of $F_{50\%}$. Because both portions of the stock are above 40 percent, the OYs could be set equal to the ABCs. For the area north of 46*16′ N. lat., the OY of 490 mt is set equal to the ABC. The following tribal harvest guidelines are being set: 20,000 lb (9.1 mt) north of Cape Alava, WA (48*09.50′ N. lat.) and 10,000 lb (4.5 mt) between Destruction Island, WA (47*40′ N. lat.) and Leadbetter Point, WA (46*38.17′ N. lat.) The OY for the area south of 46*16′ N. lat. is being set at 1,000 mt which is a constant harvest level. The black rockfish OY in the area south of 46*16′ N. lat., is subdivided with separate HGs being set for the area north of 42* N. lat. (580 mt/58 percent) and for the area south of 42* N. lat. (420 mt/42 percent).

[dd/] Minor rockfish north includes the ''remaining rockfish'' and ''other rockfish'' categories in the Vancouver, Columbia, and Eureka areas combined. These species include ''remaining rockfish'', which generally includes species that have been assessed by less rigorous methods than stock assessments, and ''other rockfish'', which includes species that do not have quantifiable stock assessments. Blue rockfish has been removed from the ''other rockfish'' and added to the remaining rockfish. The ABC of 3,678 mt is the sum of the individual ''remaining rockfish'' ABCs plus the ''other rockfish'' ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F = 0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,283 mt, the remaining rockfish ABCs were further reduced by 25 percent and other rockfish ABCs were reduced by 50 percent. This was a precautionary measure to address limited stock assessment information.

[ee/] Minor rockfish south includes the ''remaining rockfish'' and ''other rockfish'' categories in the Monterey and Conception areas combined. These species include ''remaining rockfish'' which generally includes species that have been assessed by

less rigorous methods than stock assessment, and ''other rockfish'' which includes species that do not have quantifiable stock assessments. Blue rockfish has been removed from the ''other rockfish'' and added to the remaining rockfish. The ABC of 3,384 mt is the sum of the individual ''remaining rockfish'' ABCs plus the ''other rockfish'' ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F = 0.75M) as a precautionary adjustment. The remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote gg). The other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The resulting minor rockfish OY is 1,990 mt.

ff/ Bank rockfish—The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

gg/ Blackgill rockfish in the Monterey and Conception areas was assessed in 2005 and is estimated to be at 49.9 percent of its unfished biomass in 2008. The ABC of 292 mt for the Monterey and Conception areas is based on the 2005 stock assessment with an F_{MSY} proxy of $F_{50\%}$ and is the two year average ABC for the 2007 and 2008 periods. This stock contributes 292 mt towards minor rockfish south.

hh/ ''Other rockfish'' includes rockfish species listed in 50 CFR 660.302. A new stock assessment was conducted for blue rockfish in 2007. As a result of the new stock assessment, the blue rockfish contribution to the other rockfish group, of 30 mt in the north and 232 mt in the south, are removed. A new contribution of 28 mt contribution in the north and 202 mt contribution in the south is added to the remaining rockfish. The ABC for the remaining species is based on historical data from a 1996 review landings and includes an estimate of recreational landings. Most of these species have never been assessed quantitatively.

ii/ Longnose skate was fully assessed in 2006 and an assessment update was completed in 2007. The ABC of 3,428 is based on the 2007 with an F_{MSY} proxy of $F_{45\%}$. Longnose skate was previously managed as part of the Other Fish complex. The 2009 OY of 1,349 mt is a precautionary OY based on historical total catch increased by 50 percent.

jj/ ''Other fish'' includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling, and other groundfish species noted above in footnote d/. The longnose skate contribution is being removed from this complex.

kk/ Sablefish allocation north of 36* N. lat.—The limited entry allocation is further divided with 58 percent allocated to the trawl fishery and 42 percent allocated to the fixed-gear fishery.

ll/ Specific open access/limited entry allocations specified in the FMP have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

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Table 2a. To Part 660, Subpart G-2010, and Beyond, Specifications of ABCs, OYs, and HGs, by Management Area (weights in metric tons).

Species	ABC Specifications						OY b/	HG b/	
	ABC Contributions by Area					ABC			
	Vancouver a/	Columbia	Eureka	Monterey	Conception			Commercial	Recreational
Lingcod c/ N of 42° N. lat.	4,058		771			4,829	4,829		
S of 42° N. lat.									
Pacific Cod e/	3,200		d/			3,200	1,600		
Pacific Whiting f/	f/					f/	134,773 - 404,318		
Sablefish g/ N of 36° N. lat.	9,217					9,217	6,471		
S of 36° N. lat.							1,258		
Cabezon h/ S of 42°N. lat.	d/		86		25	111	79		
FLATFISH:									
Dover sole	28,582					28,582	16,500		
English sole j/	9,745					9,745	9,745	-	
Petrale sole k/	1,514		1,237			2,751	2,393	-	
Arrowtooth flounder l/	10,112					10,112	10,112	-	
Starry Flounder m/	1,578					1,578	1,077		
Other flatfish n/	6,731					6,731	4,884	-	
ROCKFISH:									
Pacific Ocean Perch o/	1,173					1,173	200	198	
Shortbelly p/	6,950					6,950	6,950		

Species	ABC Specifications						OY b/	HG b/	
	ABC Contributions by Area					ABC			
	Vancouver a/	Columbia	Eureka	Monterey	Conception			Commercial	Recreational
Widow q/	6,937					6,937	509	447.4	7.2
Canary r/	940					940	105	42.3	43.8
Chilipepper s/	d/			2,576		2,576	2,447	2,447	
Bocaccio t/	d/			793		793	288	206.4	67.3
Splitnose u/	d/			615		615	461		
Yellowtail v/	4,562			d/		4,562	4,562		
Shortspine thornyhead w/ N of 34°27' N.lat.	2,411					2,411	1,591	1,591	
S of 34°27' N.lat.							410		
Longspine thornyhead x/ N of 34°27' N.lat.	3,671					3,671	2,175		
S of 34°27' N.lat.							385		
Cowcod y/	d/			14		14	4		
Darkblotched z/	440					440	291	288.05	
Yelloweye aa/						32	17	3.1	8.0
California Scorpionfish bb/					155	155	155		
Black cc/ N of 46°16' N. lat.	464					464	464		
S of 46°16' N. lat.			1,317			1,317	1,000		

Species	ABC Specifications						OY b/	HG b/	
	ABC Contributions by Area					ABC		Commercial	Recreational
	Vancouver a/	Columbia	Eureka	Monterey	Conception				
Minor Rockfish dd/ N of 40° 10' N. lat.	3,678			--		3,678	2,283		
Minor Rockfish ee/ S of 40° 10' N. lat.	--			3,382		3,382	1,990		
Remaining	1,640			1,318					
bank ff/	d/			350					
blackgill gg/	d/			292					
blue	28			211					
bocaccio north	318			--					
chilipepper north	32			--					
redstripe	576			d/					
sharpchin	307			45					
silvergrey	38			d/					
splitnose north	242			--					
yellowmouth	99			d/					
yellowtail	--			116					
gopher	d/			302					
Other rockfish hh/	2,038			2,066					
SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS/KELP GREENLING:									
Longnose Skate ii/	3,269					3,269	1,349		
Other fish jj/	11,200					11,200	5,600		

Table 2b. To Part 660, Subpart G-2010, and beyond, Harvest Guidelines for Minor Rockfish by Depth Sub-groups (weights in metric tons).

Species	Total Catch ABC	Total Catch OY	Recreational HG	Commercial HG	Limited Entry HG		Open Access HG	
					Mt	%	Mt	%
Minor Rockfish dd/ N of 40° 10' N. lat.	3,678	2,283	--	--	--	91.7	--	8.3
Nearshore		155	--	--				
Shelf		968	--	--				
Slope		1,160	--	--				
Minor Rockfish ee/ S of 40° 10' N. lat.	3,382	1,990	--	--	--	55.7	--	44.3
Nearshore		650	--	--				
Shelf		714	--	--				
Slope		626	--	--				

Table 2c. To Part 660, Subpart G-2010, and beyond, Open Access and Limited Entry Allocations by Species or Species Group. (Weights in Metric Tons)

Species	Commercial Total Catch HGs	Commercial Total Catch HGs			
		Limited Entry		Open Access	
		Mt	%	Mt	%
Lingcod N of 42° N. lat.	--	--	81.0	--	19.0
S of 42° N. lat.					
Sablefish kk/ N of 36° N. lat.	6,471	5,863	90.6	608	9.4
Widow ll/	--	--	97.0	--	3.0
Canary ll/	42.3	--	87.7	--	12.3
Chilipepper	2,447	1,363	55.7	1,084	44.3
Bocaccio ll/	206.4	--	55.7	--	44.3
Yellowtail	-	--	91.7	--	8.3
Shortspine thornyhead N of 34°27' N. lat.	1,591	1,586	99.7	5	0.27
Minor Rockfish N of 40°10' N. lat.	--	--	91.7	--	8.3
S of 40°10' N. lat.	--	--	55.7	--	44.3

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[a/] ABCs apply only to the U.S. portion of the Vancouver area.

[b/] Optimum Yields (OYs) and Harvest Guidelines (HGs) are specified as total catch values. A harvest guideline is a specified harvest target and not a quota. The use of this term may differ from the use of similar terms in state regulation.

[c/] Lingcod—A coastwide lingcod stock assessment was prepared in 2005. The lingcod biomass was estimated to be at 64 percent of its unfished biomass coastwide in 2005. The ABC of 4,829 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. Because the stock is above $B_{40\%}$ coastwide, the coastwide OY was set equal to the ABC. The tribal harvest guideline is 250 mt.

[d/] ''Other species''—these species are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, these species are included in the harvest guidelines of ''other fish'', ''other rockfish'' or ''remaining rockfish''.

[e/] Pacific Cod—The 3,200 mt ABC for the Vancouver-Columbia area is based on historical landings data. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment. A tribal harvest guideline of 400 mt is deducted from the OY resulting in a commercial OY of 1,200 mt.

[f/] Pacific whiting—Pacific whiting—The most recent stock assessment was prepared in February 2008. The stock assessment base model estimated the Pacific whiting biomass to be at 42.6 percent (50th percentile estimate of depletion) of its unfished biomass in 2008. Final adoption of the Pacific whiting ABC and OY have been deferred until the Council's March 2009 meeting. Therefore, table 1a does not contain an ABC value, but does contain the OY range considered in the DEIS. It is anticipated that an new assessment will be available in early 2010 and the results will be used to set the 2010 ABC and OY. The final ABC and OY will be published is a separate action following the Council's recommendation at its March 2010 meeting.

[g/] Sablefish—A coastwide sablefish stock assessment was prepared in 2007. The coastwide sablefish biomass was estimated to be at 38.3 percent of its unfished biomass in 2007. The coastwide ABC of 9,217 mt was based on the new stock assessment with a F_{MSY} proxy of $F_{45\%}$. The 40–10 harvest policy was applied to the ABC then apportion between the northern and southern areas with 72 percent going to the area north of 36* N. lat. and 28 percent going to the area south of 36* N. lat. The OY for the area north of 36* N. lat. is 6,471 mt. When establishing the OY for the area south of 36* N. lat. a 50 percent reduction was made resulting in a Conception area OY of 1,258 mt. The Coastwide OY of 7,729 mt is the sum of the northern and southern area OYs. The tribal allocation for the area north of 36* N. lat. is 647 mt (10 percent of the OY north of 36* N. lat.), which is further reduced by 1.6 percent (10 mt) to account for discard mortality. The tribal landed catch value is 637 mt.

[h/] Cabezon south of 42* N. lat. was assessed in 2005. The Cabezon stock was estimated to be at 40 percent of its unfished biomass north of 34* 27′ N. lat. and 28 percent of its unfished biomass south of 34* 27′ N. lat. in 2005. The ABC of 111 mt is based on the 2005 stock assessment with a harvest rate proxy of $F_{45\%}$. The OY of 79 mt is consistent with the application of a 60–20 harvest rate policy specified in the California Nearshore Fishery Management Plan.

[i/] Dover sole north of 34* 27′ N. lat. was assessed in 2005. The Dover sole biomass was estimated to be at 59.8 percent of its unfished biomass in 2005 and was projected to be increasing. The ABC of 28,582 mt is based on the results of the 2005 assessment with an F_{MSY} proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. The OY of 16,500 mt is less than the ABC. The OY is set at the MSY harvest level which is considerably larger than the coastwide catches in any recent years.

[j/] A coastwide English sole stock assessment was prepared in 2005 and updated in 2007. The stock was estimated to be at 116 percent of its unfished biomass in 2007. The stock biomass is believed to be declining. The ABC of 9,745 mt is based on the results of the 2007 assessment update with an F_{MSY} proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$, the OY was set equal to the ABC.

[k/] A petrale sole stock assessment was prepared for 2005. In 2005 the petrale sole stock was estimated to be at 32 percent of its unfished biomass coastwide (34 percent in the northern assessment area and 29 percent in the southern assessment area).The ABC of 2,751 mt is based on the 2005 assessment with a $F_{40\%}$ F_{MSY} proxy. To derive the OY, the 40–10 harvest policy was applied to the ABC for both the northern and southern assessment areas. As a precautionary measure, an additional 25 percent reduction was made in the OY contribution for the southern area due to assessment uncertainty. The coastwide OY is 2,393 mt in 2010.

[l/] Arrowtooth flounder was assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. Because the stock is above $B_{40\%}$, the OY is set equal to the ABC.

[m/] Starry Flounder was assessed for the first time in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. However, the stock was projected to decline below 40 percent in both the northern and southern areas after 2008. For 2010, the coastwide ABC of 1,578 mt is based on the 2005 assessment with a F_{MSY} proxy of $F_{40\%}$. To derive the OY of 1,077 mt, the 40–10 harvest policy was applied to the ABC for both the northern and southern assessment areas then an additional 25 percent reduction was made due to assessment uncertainty.

[n/] ''Other flatfish'' are those flatfish species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole. The other flatfish ABC is based on historical catch levels. The ABC of 6,731 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981–2003 period and on the average landings from the 1994–1998 period for the remaining other flatfish species. The OY of 4,884 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species.

[o/] A POP stock assessment was prepared in 2005 and was updated in 2007. The stock assessment update estimated the stock to be at 27.5 percent of its unfished biomass in 2007. The ABC of 1,173 mt for the Vancouver and Columbia areas is based on the 2007 stock assessment update with an F_{MSY} proxy of $F_{50\%}$. The OY of 200 mt is based on a rebuilding plan with a target year to rebuild of 2017 and an SPR harvest rate of 86.4 percent. The OY is reduced by 2.0 mt for the amount anticipated to be taken during research activity and 0.14 mt for the amount expected to be taken during EFP fishing.

[p/] Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. To understand the potential environmental determinants of fluctuations in the recruitment and abundance of an unexploited rockfish population in the California Current ecosystem, a non-quantitative assessment was conducted in 2007. The results of the assessment indicated the shortbelly stock was healthy with an estimated spawning stock biomass at 67 percent of its unfished biomass in 2005. The ABC and OY are being set at 6,950 mt which is 50 percent of the 2008 ABC and OY values. The stock is expected to remain at its current equilibrium with these harvest specifications.

[q/] Widow rockfish was assessed in 2005 and an update was prepared in 2007. The stock assessment update estimated the stock to be at 36.2 percent of its unfished biomass in 2006. The ABC of 6,937 mt is based on the stock assessment update with an $F_{50\%}$ F_{MSY} proxy. The OY of 509 is based on a rebuilding plan with a target year to rebuild of 2015 and an SPR harvest rate or 95 percent. To derive the commercial harvest guideline of 447.4 mt the OY is reduced by 1.1 mt for the amount anticipated to be taken during research activity, 45.5 mt for the tribal set-aside, 7.2 mt the amount estimated to be taken in the recreational fisheries, 0.4 mt for the amount expected to be taken incidentally in non-groundfish fisheries, and 7.4 mt for EFP fishing activities. The following sector specific bycatch limits will be established for the Pacific whiting fishery: 153.0 mt for catcher/processors, 108.0 mt for motherships, and 189.0 mt for shore-based.

[r/] Canary rockfish—A canary rockfish stock assessment was completed in 2007 and the stock was estimated to be at 32.7 percent of its unfished biomass coastwide in 2007. The coastwide ABC of 940 mt is based on a F_{MSY} proxy of $F_{50\%}$. The OY of 105 mt is based on a rebuilding plan with a target year to rebuild of 2021 and a SPR harvest rate of 88.7 percent. To derive the commercial harvest guideline of 42.3 mt, the OY is reduced by 8.0 mt for the amount anticipated to be taken during research activity, 7.3 mt the tribal set-aside, 43.8 mt the amount estimated to be taken in the recreational fisheries, 0.9 mt for the amount expected to be taken incidentally in non-groundfish fisheries, and 2.7 mt for the amount expected to be taken during EFP fishing. The following harvest guidelines are being specified for catch sharing in 2009: 19.7 mt for limited entry Non-Whiting Trawl, 18.0 mt for limited entry Whiting Trawl, 2.2

mt for limited entry fixed gear, 2.5 mt for directed open access, 4.9 mt for Washington recreational, 16.0 mt for Oregon recreational, and 22.9 mt for California recreational.

s/ Chilipepper rockfish was assessed in 2007 and the stock was estimated to be at 71 percent of its unfished biomass coastwide in 2007. The ABC of 2,576 mt is based on the new assessment with an F_{MSY} proxy of $F_{50\%}$. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the default OY could be set equal to the ABC. However, the OY of 2,447 mt was the ABC reduced by 5 percent as a precautionary measure. Open access is allocated 44.3 percent (1,084 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,363 mt) of the commercial HG.

t/ A bocaccio stock assessment and a rebuilding analysis were prepared in 2007. The bocaccio stock was estimated to be at 13.8 percent of its unfished biomass in 2007. The ABC of 793 mt for the Monterey-Conception area is based on the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The OY of 288 is based on a rebuilding plan with a target year to rebuild of 2026 and a SPR harvest rate of 77.7 percent. To derive the commercial harvest guideline of 206.4 mt, the OY is reduced by 2.0 mt for the amount anticipated to be taken during research activity, 67.3 mt for the amount estimated to be taken in the recreational fisheries, 1.3 mt for the amount expected to be taken incidentally in non-groundfish fisheries, and 11.0 mt for the amount expected to be taken during EFP fishing.

u/ Splitnose rockfish—The ABC is 615 mt in the Monterey-Conception area. The 461 mt OY for the area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. In the north (Vancouver, Columbia and Eureka areas), splitnose is included within the minor slope rockfish OY. Because the harvest assumptions used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2010 was considered to be conservative and based on the best available data.

v/ Yellowtail rockfish—A yellowtail rockfish stock assessment was prepared in 2005 for the Vancouver, Columbia, Eureka areas. Yellowtail rockfish was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 4,562 mt is based on the 2005 stock assessment with the F_{MSY} proxy of $F_{50\%}$. The OY of 4,562 mt was set equal to the ABC, because the stock is above the precautionary threshold of $B_{40\%}$.

w/ Shortspine thornyhead was assessed in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. The ABC of 2,411 mt is based on a $F_{50\%}$ F_{MSY} proxy. For that portion of the stock (66 percent of the biomass) north of Point Conception (34°27′ N. lat.), the OY of 1,591 mt was set at equal to the ABC because the stock is estimated to be above the precautionary threshold. For that portion of the stock south of 34°27′ N. lat. (34 percent of the biomass), the OY of 410 mt was the portion of the ABC for the area reduced by 50 percent as a precautionary adjustment due to the short duration and amount of survey data for that area.

x/ Longspine thornyhead was assessed coastwide in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. The coastwide ABC of 3,671 mt is based on a $F_{50\%}$ F_{MSY} proxy. The OY is set equal to the ABC because the stock is above the precautionary threshold. Separate OYs are being established for the areas north and south of 34°27′ N. lat. (Point Conception). The OY of 2,175 mt for that portion of the stock in the northern area (79 percent) was the ABC reduced by 25 percent as a precautionary adjustment. For that portion of the stock in the southern area (21 percent), the OY of 385 mt was the portion of the ABC for the area reduced by 50 percent as a precautionary adjustment due to the short duration and amount of survey data for that area.

y/ Cowcod in the Conception area was assessed in 2007 and the stock was estimated to be between 3.4 to 16.3 percent of its unfished biomass. The ABC for the Monterey and Conception areas is 14 mt and is based on the 2007 rebuilding analysis in which the Conception area stock assessment projection was doubled to account for both areas. A single OY of 4 mt is being set for both areas. The OY of 4 mt is based on a rebuilding plan with a target year to rebuild of 2072 and an SPR rate of 82.1 percent. The amount anticipated to be taken during research activity is 0.2 mt and the amount expected to be taken during EFP activity is 0.24 mt.

z/ Darkblotched rockfish was assessed in 2007 and a rebuilding analysis was prepared. The new stock assessment estimated the stock to be at 22.4 percent of its unfished biomass in 2007. The ABC is projected to be 440 mt and is based on the 2007 stock assessment with an F_{MSY} proxy of $F_{50\%}$. The OY of 291 mt is based on a rebuilding plan with a target year to rebuild of 2028 and an SPR harvest rate of 62.1 percent. The commercial OY of 288.05 is the OY reduced by 2.0 mt for the amount anticipated to be taken during research activity and 0.95 mt for the amount projected to be taken during EFP activity.

aa/ Yelloweye rockfish was fully assessed in 2006 and an assessment update was completed in 2007. The 2007 stock assessment update estimated the spawning stock biomass in 2006 to be at 14 percent of its unfished biomass coastwide. The 32 mt coastwide ABC was derived from the base model in the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The 17 mt OY is based on a rebuilding plan with a target year to rebuild of 2084 and an SPR harvest rate of 66.3 percent in 2009 and 2010 and an SPR harvest rate of 71.9 percent for 2011 and beyond. The OY is reduced by 2.8 mt for the amount anticipated to be taken during research activity, 2.3 mt the amount estimated to be taken in the tribal fisheries and 0.3 mt for the amount expected to be taken incidentally in non-groundfish fisheries. The catch sharing harvest guidelines for yelloweye rockfish in 2009 and 2010 are: Limited entry non-whiting trawl 0.6 mt, limited entry whiting 0.0 mt, limited entry fixed gear 1.4 mt, directed open access 1.1 mt, Washington recreational 2.7 mt, Oregon recreational 2.4 mt, California recreational 2.8 mt, and 0.3 mt for exempted fishing.

bb/ California Scorpionfish south of 34°27′ N. lat. (point Conception) was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 155 mt is based on the new assessment with a harvest rate proxy of $F_{50\%}$. Because the stock is above $B_{40\%}$ coastwide, the OY is set equal to the ABC.

cc/ New assessments were prepared for black rockfish south of 45*56.00 N. lat. (Cape Falcon, Oregon) and for black rockfish north of Cape Falcon. The ABC for the area north of 46*16′ N. lat. (Washington) is 464 mt (97 percent) of the 478 mt ABC contribution from the northern assessment area. The ABC for the area south of 46*16′ N. lat. (Oregon and California) is 1,317 mt which is the sum of a contribution of 14 mt (3 percent) from the northern area assessment, and 1,303 mt from the southern area assessment. The ABCs were derived using an F_{MSY} proxy of $F_{50\%}$. Because both portions of the stock are above 40 percent, the OYs could be set equal to the ABCs. For the area north of 46*16′ N. lat., the OY of 490 mt is set equal to the ABC. The following tribal harvest guidelines are being set: 20,000 lb (9.1 mt) north of Cape Alava, WA (48*09.50′ N. lat.) and 10,000 lb (4.5 mt) between Destruction Island, WA (47*40′ N. lat.) and Leadbetter Point, WA (46*38.17′ N. lat.) For the area south of 46*16′ N. lat., the OY of 1,000 mt is a constant harvest level. The black rockfish OY in the area south of 46*16′ N. lat., is subdivided with separate HGs being set for the area north of 42* N. lat. (580 mt/58 percent) and for the area south of 42* N. lat. (420 mt/42 percent).

dd/ Minor rockfish north includes the ''remaining rockfish'' and ''other rockfish'' categories in the Vancouver, Columbia, and Eureka areas combined. These species include ''remaining rockfish'', which generally includes species that have been assessed by less rigorous methods than stock assessments, and ''other rockfish'', which includes species that do not have quantifiable stock assessments. Blue rockfish has been removed from the ''other rockfish'' and added to the remaining rockfish. The ABC of 3,678 mt is the sum of the individual ''remaining rockfish'' ABCs plus the ''other rockfish'' ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F = 0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,283 mt, the remaining rockfish ABCs were further reduced by 25 percent and other rockfish ABCs were reduced by 50 percent. This was a precautionary measure to address limited stock assessment information.

ee/ Minor rockfish south includes the ''remaining rockfish'' and ''other rockfish'' categories in the Monterey and Conception areas combined. These species include ''remaining rockfish'' which generally includes species that have been assessed by less rigorous methods than stock assessment, and ''other rockfish'' which includes species that do not have quantifiable stock assessments. Blue rockfish has been removed from the ''other rockfish'' and added to the remaining rockfish. The ABC of 3,382 mt is the sum of the individual ''remaining rockfish'' ABCs plus the ''other rockfish'' ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F = 0.75M) as

a precautionary adjustment. The remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote gg). The other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The resulting minor rockfish OY is 1,990 mt.

ff/ Bank rockfish—The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

gg/ Blackgill rockfish in the Monterey and Conception areas was assessed in 2005 and is estimated to be at 49.9 percent of its unfished biomass in 2008. The ABC of 292 mt for the Monterey and Conception areas is based on the 2005 stock assessment with an F_{MSY} proxy of $F_{50\%}$ and is the two year average ABC for the 2007 and 2008 periods. This stock contributes 292 mt towards minor rockfish south.

hh/ ''Other rockfish'' includes rockfish species listed in 50 CFR 660.302. A new stock assessment was conducted for blue rockfish in 2007. As a result of the new stock assessment, the blue rockfish contribution to the other rockfish group, of 30 mt in the north and 232 mt in the south, are removed. A new contribution of 28 mt contribution in the north and 202 mt contribution in the south is added to the remaining rockfish. The ABC for the remaining species is based on historical data from a 1996 review landings and includes an estimate of recreational landings. Most of these species have never been assessed quantitatively.

ii/ Longnose skate was fully assessed in 2006 and an assessment update was completed in 2007. The ABC of 3,428 is based on the 2007 with an F_{MSY} proxy of $F_{45\%}$. Longnose skate was previously managed as part of the Other Fish complex. The 2009 OY of 1,349 mt is a precautionary OY based on historical total catch increased by 50 percent.

jj/ ''Other fish'' includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling, and other groundfish species noted above in footnote d/. The longnose skate contribution is being removed from this complex.

kk/ Sablefish allocation north of 36* N. lat.—The limited entry allocation is further divided with 58 percent allocated to the trawl fishery and 42 percent allocated to the fixed-gear fishery.

ll/ Specific open access/limited entry allocations specified in the FMP have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

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Table 3 (North) to Part 660, Subpart G -- 2009-2010 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table 021009

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	North of 48°10' N. lat.	shore - modified 200 fm [7/]	shore - 200 fm	shore - 150 fm		shore - 200 fm	shore - modified 200 fm [7/]
2	48°10' N. lat. - 45°46' N. lat.	75 fm - modified 200 fm [7/]	75 fm - 200 fm	75 fm - 150 fm		75 fm - 200 fm	75 fm - modified 200 fm [7/]
3	45°46' N. lat. - 40°10' N. lat.			75 fm - 200 fm			
	Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season.						
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
4	**Minor slope rockfish[2/] & Darkblotched rockfish**	1,500 lb/ 2 months					
5	**Pacific ocean perch**	1,500 lb/ 2 months					
6	**DTS complex**						
7	Sablefish						
8	large & small footrope gear	18,000 lb/ 2 months		22,000 lb/ 2 months			18,000 lb/ 2 months
9	selective flatfish trawl gear	5,000 lb/ 2 months	7,500 lb/ 2months				5,000 lb/ 2 months
10	multiple bottom trawl gear[8/]	5,000 lb/ 2 months	7,500 lb/ 2months				5,000 lb/ 2 months
11	Longspine thornyhead						
12	large & small footrope gear	22,000 lb/ 2 months					
13	selective flatfish trawl gear	3,000 lb/ 2 months	5,000 lb/ 2 months				3,000 lb/ 2 months
14	multiple bottom trawl gear[8/]	3,000 lb/ 2 months	5,000 lb/ 2 months				3,000 lb/ 2 months
15	Shortspine thornyhead						
16	large & small footrope gear	17,000 lb/2 months					
17	selective flatfish trawl gear	3,000 lb/ 2 months					
18	multiple bottom trawl gear[8/]	3,000 lb/ 2 months					
19	Dover sole						
20	large & small footrope gear	110,000 lb/ 2 months					
21	selective flatfish trawl gear	40,000 lb/ 2 months	45,000 lb/ 2 months				40,000 lb/ 2 months
22	multiple bottom trawl gear[8/]	40,000 lb/ 2 months	45,000 lb/ 2 months				40,000 lb/ 2 months

TABLE 3 (North)

Table 3 (North). Continued

23	**Whiting**					TABLE 3 (North) con't
24	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED.				
25	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.				
26	**Flatfish** (except Dover sole)					
27	Arrowtooth flounder					
28	large & small footrope gear	150,000 lb/ 2 months				
29	selective flatfish trawl gear	90,000 lb/ 2 months				
30	multiple bottom trawl gear [8/]	90,000 lb/ 2 months				
31	Other flatfish [3/], English sole, starry flounder, & Petrale sole					
32	large & small footrope gear for Other flatfish [3/], English sole, & starry flounder	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months	
33	large & small footrope gear for Petrale sole	25,000 lb/ 2 months			40,000 lb/ 2 months	
34	selective flatfish trawl gear for Other flatfish [3/], English sole, & starry flounder	90,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole.		90,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole.	
35	selective flatfish trawl gear for Petrale sole					
36	multiple bottom trawl gear [8/]	90,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole.		90,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole.	
37	**Minor shelf rockfish [1/], Shortbelly, Widow & Yelloweye rockfish**					
38	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.				
39	large & small footrope gear	300 lb/ 2 months				
40	selective flatfish trawl gear	300 lb/ month		1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month	
41	multiple bottom trawl gear [8/]	300 lb/ month		300 lb/ 2 months, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month	

Table 3 (North). Continued

42	**Canary rockfish**				
43	large & small footrope gear	CLOSED			
44	selective flatfish trawl gear	100 lb/ month	300 lb/ month	100 lb/ month	
45	multiple bottom trawl gear 8/	CLOSED			
46	**Yellowtail**				
47	midwater trawl	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.			
48	large & small footrope gear	300 lb/ 2 months			
49	selective flatfish trawl gear	2,000 lb/ 2 months			
50	multiple bottom trawl gear 8/	300 lb/ 2 months			
51	**Minor nearshore rockfish & Black rockfish**				
52	large & small footrope gear	CLOSED			
53	selective flatfish trawl gear	300 lb/ month			
54	multiple bottom trawl gear 8/	CLOSED			
55	**Lingcod** 4/				
56	large & small footrope gear	1,200 lb/ 2 months	4,000 lb/ 2 months		
57	selective flatfish trawl gear		1,200 lb/2 months		
58	multiple bottom trawl gear 8/				
59	**Pacific cod**	30,000 lb/ 2 months	70,000 lb/ 2 months		30,000 lb/ 2 months
60	**Spiny dogfish**	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months	
61	**Other Fish** 5/	Not limited			

TABLE 3 (North) con't

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.
2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole
4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat.
5/ "Other fish" are defined at § 660.302 and include sharks, skates (including longnose skate), ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
7/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA
8/ If a vessel has both selective flatfish gear and large or small footrope gear on board during a cumulative limit period (either simultaneously or successively), the most restrictive cumulative limit for any gear on board during the cumulative limit period applies for the entire cumulative limit period.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart G -- 2009-2010 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table

021009

TABLE 3 (South)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	South of 40°10' N. lat.	100 fm - 150 fm[7/]					
	All trawl gear (large footrope, selective flatfish trawl, midwater trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear and midwater trawl gear are prohibited shoreward of the RCA.						
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
2	**Minor slope rockfish[2/] & Darkblotched rockfish**						
3	40°10' - 38° N. lat.	15,000 lb/ 2 months			10,000 lb/ 2 months		15,000 lb/ 2 months
4	South of 38° N. lat.	55,000 lb/ 2 months					
5	**Splitnose**						
6	40°10' - 38° N. lat.	15,000 lb/ 2 months			10,000 lb/ 2 months		15,000 lb/ 2 months
7	South of 38° N. lat.	55,000 lb/ 2 months					
8	**DTS complex**						
9	Sablefish	20,000 lb/ 2 months					
10	Longspine thornyhead	22,000 lb/ 2 months					
11	Shortspine thornyhead	17,000 lb/ 2 months					
12	Dover sole	110,000 lb/ 2 months					
13	**Flatfish** (except Dover sole)						
14	Other flatfish[3/], English sole, & starry flounder	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole.				110,000 lb/ 2 months
15	Petrale sole	50,000 lb/ 2 months					50,000 lb/ 2 months
16	Arrowtooth flounder	10,000 lb/ 2 months					
17	**Whiting**						
18	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED.					
19	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					

Table 3 (South). Continued

20	**Minor shelf rockfish[1/], Chilipepper, Shortbelly, Widow, & Yelloweye rockfish**				
21	large footrope or midwater trawl for Minor shelf rockfish & Shortbelly	300 lb/ month			
22	large footrope or midwater trawl for Chilipepper	5,000 lb/ 2 months			
23	large footrope or midwater trawl for Widow & Yelloweye	CLOSED			
24	small footrope trawl for Minor Shelf, Shortbelly, Widow & Yelloweye	300 lb/ month			
25	small footrope trawl for Chilipepper	5,000 lb/ 2 months			
26	**Bocaccio**				
27	large footrope or midwater trawl	300 lb/ 2 months			
28	small footrope trawl	CLOSED			
29	**Canary rockfish**				
30	large footrope or midwater trawl	CLOSED			
31	small footrope trawl	100 lb/ month	300 lb/ month	100 lb/ month	
32	**Cowcod**	CLOSED			
33	**Bronzespotted rockfish**	CLOSED			
34	**Minor nearshore rockfish & Black rockfish**				
35	large footrope or midwater trawl	CLOSED			
36	small footrope trawl	300 lb/ month			
37	**Lingcod[4/]**				
38	large footrope or midwater trawl	1,200 lb/ 2 months	4,000 lb/ 2 months		
39	small footrope trawl		1,200 lb/ 2 months		
40	**Pacific cod**	30,000 lb/ 2 months	70,000 lb/ 2 months		30,000 lb/ 2 months
41	**Spiny dogfish**	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months	
42	**Other Fish[5/] & Cabezon**	Not limited			

TABLE 3 (South) con't

1/ Yellowtail is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit
2/ POP is included in the trip limits for minor slope rockfish
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.
5/ Other fish are defined at § 660.302 and include sharks, skates (including longnose skate), ratfish, morids, grenadiers, and kelp greenling.
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
7/ South of 34°27' N. lat., the RCA is 100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4 (North) to Part 660, Subpart G -- 2009-2010 Trip Limits for Limited Entry Fixed Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table 021009

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm					
2	46°16' N. lat. - 45°03.83' N. lat.	30 fm - 100 fm					
3	45°03.83' N. lat. - 43°00' N. lat.	30 fm - 125 fm [7/]					
4	43°00' N. lat. - 40°10' N. lat.	20 fm - 100 fm					
	See § 660.370 and § 660.382 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
5	**Minor slope rockfish [2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
6	**Pacific ocean perch**	1,800 lb/ 2 months					
7	**Sablefish**	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months			500 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months		
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**	2,000 lb/ 2 months					
10	**Dover sole**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
11	**Arrowtooth flounder**						
12	**Petrale sole**						
13	**English sole**						
14	**Starry flounder**						
15	**Other flatfish [1/]**						
16	**Whiting**	10,000 lb/ trip					
17	**Minor shelf rockfish [2/], Shortbelly, Widow, & Yellowtail rockfish**	200 lb/ month					
18	**Canary rockfish**	CLOSED					
19	**Yelloweye rockfish**	CLOSED					
20	**Minor nearshore rockfish & Black rockfish**						
21	North of 42° N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish 3/					
22	42° - 40°10' N. lat.	6,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish 3/					
23	**Lingcod [4/]**	CLOSED		800 lb/ 2 months		400 lb/ month	CLOSED
24	**Pacific cod**	1,000 lb/ 2 months					
25	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
26	**Other fish [5/]**	Not limited					

TABLE 4 (North)

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
2/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish and splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.
5/ "Other fish" are defined at § 660.302 and include sharks, skates (including longnose skates), ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
7/ The 125 fm restriction is in place all year, except on days when the directed halibut fishery is open. On those days the 100 fm depth restriction is in effect.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4 (South) to Part 660, Subpart G -- 2009-2010 Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table 021009

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
1	40°10' - 34°27' N. lat.	30 fm - 150 fm					
2	South of 34°27' N. lat.	60 fm - 150 fm (also applies around islands)					
	See § 660.370 and § 660.382 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
3	**Minor slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months					
4	**Splitnose**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months			500 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months		
7	South of 36° N. lat.	400 lb/ day, or 1 landing per week of up to 1,500 lb					
8	**Longspine thornyhead**	10,000 lb / 2 months					
9	**Shortspine thornyhead**						
10	40°10' - 34°27' N. lat.	2,000 lb/ 2 months					
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12	**Dover sole**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
13	**Arrowtooth flounder**						
14	**Petrale sole**						
15	**English sole**						
16	**Starry flounder**						
17	**Other flatfish[1/]**						
18	**Whiting**	10,000 lb/ trip					
19	**Minor shelf rockfish[2/], Shortbelly, Widow rockfish, and Bocaccio (including Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, bocaccio & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb/ 2 months may be any species other than chilipepper.					
21	South of 34°27' N. lat.	3,000 lb/ 2 months	CLOSED	3,000 lb/ 2 months			
22	**Chilipepper rockfish**						
23	40°10' - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly, widow and bocaccio limits - - See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the nontrawl RCA					
25	**Canary rockfish**	CLOSED					
26	**Yelloweye rockfish**	CLOSED					
27	**Cowcod**	CLOSED					
28	**Bronzespotted rockfish**	CLOSED					
29	**Bocaccio**						
30	40°10' - 34°27' N. lat.	Bocaccio included under Minor shelf rockfish, shortbelly, widow & chilipepper limits -- See above					
31	South of 34°27' N. lat.	300 lb/ 2 months	CLOSED	300 lb/ 2 months			

TABLE 4 (South)

Table 4 (South). Continued

32	**Minor nearshore rockfish & Black rockfish**							
33	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	600 lb/ 2 months	
34	Deeper nearshore							
35	40°10' - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months		600 lb/ 2 months	700 lb/ 2 months	
36	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months				
37	California scorpionfish	600 lb/ 2 months	CLOSED	600 lb/ 2 months	800 lb/ 2 months		600 lb/ 2 months	
38	**Lingcod**[3/]	CLOSED		800 lb/ 2 months			400 lb/ month	CLOSED
39	**Pacific cod**	1,000 lb/ 2 months						
40	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months			
41	**Other fish**[4/] **& Cabezon**	Not limited						

TABLE 4 (South)

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

2/ POP is included in the trip limits for minor slope rockfish. Yellowtail is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ The minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

4/ "Other fish" are defined at § 660.302 and include sharks, skates (including longnose skates), ratfish, morids, grenadiers, and kelp greenling.

5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394, except that the 20-fm depth contour off California is defined by the depth contour and not coordinates.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 5 (North) to Part 660, Subpart G -- 2009-2010 Trip Limits for Open Access Gears North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table 021009

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm					
2	46°16' N. lat. - 45°03.83' N. lat.	30 fm - 100 fm					
3	45°03.83' N. lat. - 43°00' N. lat.	30 fm - 125 fm [7/]					
4	43°00' N. lat. - 40°10' N. lat.	20 fm - 100 fm					
	See § 660.370 and § 660.383 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
5	**Minor slope rockfish[1/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
6	**Pacific ocean perch**	100 lb/ month					
7	**Sablefish**	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months		300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,200 lb/ 2 months			
8	**Thornyheads**	CLOSED					
9	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
10	**Arrowtooth flounder**						
11	**Petrale sole**						
12	**English sole**						
13	**Starry flounder**						
14	**Other flatfish[2/]**						
15	**Whiting**	300 lb/ month					
16	**Minor shelf rockfish[1/], Shortbelly, Widow, & Yellowtail rockfish**	200 lb/ month					
17	**Canary rockfish**	CLOSED					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor nearshore rockfish & Black rockfish**						
20	North of 42° N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]					
21	42° - 40°10' N. lat.	6,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]					
22	**Lingcod[4/]**	CLOSED		400 lb/ month			CLOSED
23	**Pacific cod**	1,000 lb/ 2 months					
24	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
25	**Other Fish[5/]**	Not limited					

TABLE 5 (North)

Table 5 (North). Continued

26	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*		**TABLE 5 (North) con't**
27	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.	
28	**SALMON TROLL**		
29	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 15 Chinook, plus 1 lingcod up to a trip limit of 10 lingcod, both within and outside of the RCA. This limit is within the 400 lb per month limit for lingcod, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above.	

1/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for minor shelf rockfish. Splitnose rockfish is included in the trip limits for minor slope rockfish.
2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42 ° N. lat. and 24 inches (61 cm) total length South of 42 ° N. lat.
5/ "Other fish" are defined at § 660.302 and include sharks, skates (including longnose skates), ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
7/ The 125 fm restriction is in place all year, except on days when the directed halibut fishery is open. On those days the 100 fm depth restriction is in effect.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 5 (South) to Part 660, Subpart G -- 2009-2010 Trip Limits for Open Access Gears South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table 021009

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
1	40°10' - 34°27' N. lat.	30 fm - 150 fm					
2	South of 34°27' N. lat.	60 fm - 150 fm (also applies around islands)					
	See § 660.370 and § 660.383 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
3	**Minor slope rockfish[1/] & Darkblotched rockfish**						
4	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed					
5	South of 38° N. lat.	10,000 lb/ 2 months					
6	**Splitnose**	200 lb/ month					
7	**Sablefish**						
8	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months		300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,200 lb/ 2 months			
9	South of 36° N. lat.	400 lb/ day, or 1 landing per week of up to 1,500 lb, not to exceed 8,000 lb/ 2 months					
10	**Thornyheads**						
11	40°10' - 34°27' N. lat.	CLOSED					
12	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
13	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14	**Arrowtooth flounder**						
15	**Petrale sole**						
16	**English sole**						
17	**Starry flounder**						
18	**Other flatfish[2/]**						
19	**Whiting**	300 lb/ month					
20	**Minor shelf rockfish[1/], Shortbelly, Widow & Chilipepper rockfish**						
21	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
22	South of 34°27' N. lat.	750 lb/ 2 months		750 lb/ 2 months			
23	**Canary rockfish**	CLOSED					
24	**Yelloweye rockfish**	CLOSED					
25	**Cowcod**	CLOSED					
26	**Bronzespotted rockfish**	CLOSED					
27	**Bocaccio**						
28	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
29	South of 34°27' N. lat.	100 lb/ 2 months		100 lb/ 2 months			

TABLE 5 (South)

Table 5 (South). Continued

30	**Minor nearshore rockfish & Black rockfish**							
31	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	600 lb/ 2 months	
32	Deeper nearshore							
33	40°10' - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months		600 lb/ 2 months	700 lb/ 2 months	
34	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months				
35	California scorpionfish	600 lb/ 2 months	CLOSED	600 lb/ 2 months	800 lb/ 2 months		600 lb/ 2 months	
36	**Lingcod**[3/]	CLOSED		400 lb/ month				CLOSED
37	**Pacific cod**	1,000 lb/ 2 months						
38	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months			
39	**Other Fish**[4/] **& Cabezon**	Not limited						
40	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
41	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
42	40°10' - 38° N. lat.	100 fm - modified 200 fm [6/]	100 fm - 150 fm				100 fm - modified 200 fm [6/]	
43	38° - 34°27' N. lat.	100 fm - 150 fm						
44	South of 34°27' N. lat.	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands						
45		Groundfish: 300 lb/trip. Trip limits in this table also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).						
46	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
47	South	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.						

TABLE 5 (South) con't

1/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish. POP is included in the trip limits for minor slope rockfish. Bronzespotted rockfish have a species specific trip limit.
2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
3/ The size limit for lingcod is 24 inches (61 cm) total length South of 42 ° N. lat.
4/ "Other fish" are defined at § 660.302 and include sharks, skates (including longnose skates), ratfish, morids, grenadiers, and kelp greenling.
5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394, except that the 20-fm depth contour off California is defined by the depth contour and not coordinates.
6/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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