8–17–10 Tuesday
Vol. 75 No. 158 Aug. 17, 2010

Pages 50683–50842

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register**, *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 75 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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, September 14, 2010
9 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

Contents

Federal Register

Vol. 75, No. 158

Tuesday, August 17, 2010

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 75, No. 158
Tuesday, August 17, 2010

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Regulation E; Docket No. R–1377]

Electronic Fund Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim final rule; request for public comment.

SUMMARY: The Board is amending Regulation E, which implements the Electronic Fund Transfer Act, and the official staff commentary to the regulation, in order to implement legislation that modifies the effective date of certain disclosure requirements in the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009.

DATES: This interim final rule is effective August 22, 2010. Comments must be received on or before September 16, 2010.

ADDRESSES: You may submit comments, identified by Docket No. R–1377, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Ky Tran-Trong, Counsel, Vivian Wong or Dana Miller, Senior Attorneys, or Mandie Aubrey, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or (202) 452–3667. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

On May 22, 2009, the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) was signed into law.[1] Section 401 of the Credit Card Act amended the Electronic Fund Transfer Act, 15 U.S.C. 1693 *et seq.,* and imposed certain restrictions on a person's ability to impose dormancy, inactivity, or service fees with respect to gift certificates, store gift cards, and general-use prepaid cards. In addition, the Credit Card Act generally prohibited the issuance or sale of such products if they expire earlier than five years from the date of issuance of a gift certificate or the date on which funds were last loaded to a store gift card or general-use prepaid card.

Section 403 of the Credit Card Act required that the gift card and related provisions of the Credit Card Act become effective 15 months after enactment, or on August 22, 2010. *See* EFTA Section 915(d)(3). The Board published a final rule implementing the gift card provisions of the Credit Card Act on April 1, 2010 (final gift card rule). 75 FR 16580. As mandated by the Credit Card Act, the final gift card rule has an effective date of August 22, 2010.

Congress recently passed legislation that amends Section 403 of the Credit Card Act to delay the effective date of certain gift card disclosure provisions of the Credit Card Act for certificates or cards produced prior to April 1, 2010 (Gift Card Amendment).[2] The Gift Card Amendment provides a delayed effective date with respect to these provisions in order to permit the sale of existing card stock through January 31, 2011. Nonetheless, the substantive fee and expiration date protections provided by the Credit Card Act continue to apply to those certificates or cards sold to a consumer on or after August 22, 2010. The interim final rule published today revises the April 2010 final gift card rule in order to implement the Gift Card Amendment.

As discussed in IV. Legal Authority, the Board is issuing this rule as an interim final rule based on its determination that, given the impending August 22, 2010 effective date of the Credit Card Act and the final gift card rule, it would be impracticable to issue a proposal for public comment followed by a final rule. However, the Board intends to consider comments on this interim final rule for purposes of publishing a final rule and may issue final clarifications and amendments to the extent appropriate.

II. Summary of Interim Final Rule

With respect to gift certificates, store gift cards, and general-use prepaid cards produced prior to April 1, 2010, the Gift Card Amendment delays the effective date of the disclosure requirements in EFTA Sections 915(b)(3) and (c)(2)(B) (as amended by the Credit Card Act) until January 31, 2011, provided that several specified conditions are met. This interim final rule implements the Gift Card Amendment.

While the Gift Card Amendment delays the effective date for certain disclosure requirements set forth in the Credit Card Act, the Gift Card Amendment does not address the status of additional requirements adopted in the Board's final gift card rule. As a result, persons seeking to take advantage of the relief afforded by the Gift Card Amendment may be unable to do so if certain of these additional provisions were to apply after August 22, 2010. For example, § 205.20(e)(1) prohibits any person from selling or issuing a certificate or card unless the consumer has had a reasonable opportunity to purchase a certificate or card with at least five years remaining until the certificate or card expiration date. Thus,

[1] Public Law 111–24, 123 Stat. 1734 (2009).

[2] Public Law 111–209, 124 Stat. 2254 (July 27, 2010).

a card produced prior to April 1, 2010 that has a card expiration date of less than five years could not be sold under the final gift card rule, notwithstanding the provisions of the Gift Card Amendment. Therefore, in order to carry out the intended purpose of the Gift Card Amendment, this interim final rule also delays the effective date of certain of these supplemental requirements.

This interim final rule revises §§ 205.20(c) and (g) of the final gift card rule ("Form of Disclosures" and "Compliance Dates," respectively) and adds a new § 205.20(h) ("Temporary Exemption").

III. Section-by-Section Analysis

20(c) Form of Disclosures

20(c)(2) Format

The Gift Card Amendment requires that certain alternative disclosures be made to the consumer in order for an issuer to take advantage of the delayed effective date, through in-store signage, messages during customer service calls, Web sites, and general advertising. These disclosure requirements are implemented through § 205.20(h)(2) of the interim final rule, discussed in more detail below.

Section 205.20(c)(2) of the final gift card rule generally requires disclosures to be made in writing or electronically, and in retainable form. The Board believes such requirements are unnecessary with respect to the disclosures required by § 205.20(h)(2). For example, it would be impracticable to provide in-store signage under § 205.20(h)(2) in a retainable form. Moreover, the alternative disclosures required by § 205.20(h)(2) are intended to relieve the burden of replacing non-compliant card stock with card stock bearing disclosures that comply with the final gift card rule, so Board believes that the format standards in § 205.20(c)(2) are less appropriate in this instance. Thus, § 205.20(c)(2) has been revised to provide that the disclosures required by § 205.20(h)(2) need not be made in a retainable form. For similar reasons, § 205.20(c)(2) is revised to provide that the prior-to-purchase disclosures required by § 205.20(c)(3) need not be provided in a retainable form. Section 205.20(c)(2) has also been revised to make clear that the disclosures required by § 205.20(h)(2) may be provided orally.

20(g) Compliance Dates

20(g)(1) Effective Date for Gift Certificates, Store Gift Cards, and General-Use Prepaid Cards

The final gift card rule becomes effective August 22, 2010, consistent with the Credit Card Act. To give effect to the delayed effective date set forth in the Gift Card Amendment, the interim final rule revises § 205.20(g)(1) to state that, except as provided in new § 205.20(h), § 205.20 applies to any gift certificate, store gift card, or general-use prepaid card sold to a consumer on or after August 22, 2010, or provided to a consumer as a replacement for such certificate or card.

20(g)(2) Effective Date for Loyalty, Award, or Promotional Gift Cards

Section 205.20(g)(2) of the final gift card rule sets forth a special transition rule for the disclosure requirements applicable to loyalty, award, and promotional gift cards. Specifically, § 205.20(g)(2) provides that the disclosure requirements in § 205.20(a)(4)(iii) apply to any card, code or other device provided to a consumer in connection with a loyalty, award, or promotional program where the period of eligibility for the program begins on or after August 22, 2010. The Gift Card Amendment does not specifically delay the effective date of the disclosures required by § 205.20(a)(4)(iii), and accordingly the effective date for loyalty, award, and promotional cards remains unchanged in this interim final rule.

20(h) Temporary Exemption

20(h)(1) Delayed Effective Date

As discussed above, the Gift Card Amendment delays the effective date of the disclosure requirements in EFTA Sections 915(b)(3) and (c)(2)(B) under the Credit Card Act under certain circumstances. Section 205.20(h)(1) implements the delayed effective date. Specifically, § 205.20(h)(1) provides that, for any gift certificate, store gift card, or general-use prepaid card produced prior to April 1, 2010, the effective date of the requirements of paragraphs (c)(3), (d)(2), (e)(1), (e)(3), and (f) of this section is January 31, 2011, provided that an issuer of such certificate or card meets several specified conditions.

Provisions of the Final Gift Card Rule Subject to the Delayed Effective Date

Section 205.20(h)(1) delays the effective dates of §§ 205.20(d)(2) and (e)(3)(i) of the final gift card rule. Section 205.20(d)(2), which implemented EFTA Section 915(b)(3)(A), prohibits the imposition of any dormancy, inactivity, or service fee unless, among other things, certain specified clear and conspicuous disclosures about the fees are made on the certificate or card. Section 205.20(e)(3)(i), which implemented EFTA Section 915(c)(2)(B), requires that the expiration date for the certificate or card's underlying funds—or the fact that the underlying funds do not expire—be disclosed on the certificate or card. These disclosure requirements are subject to the delayed effective date under the Gift Card Amendment for certificates or cards produced prior to April 1, 2010.

In addition, § 205.20(h)(1) delays the effective dates of §§ 205.20(e)(1), (e)(3)(ii), (e)(3)(iii), and (f). Section 205.20(e)(1) prohibits the issuance or sale of certificates or cards, unless policies and procedures have been established to ensure that a consumer will have a reasonable opportunity to purchase a certificate or card with at least five years remaining until the certificate or card expiration date. Section 205.20(e)(3)(ii) requires the disclosure on the certificate or card of a toll-free telephone number, and, if one is maintained, a Web site that a consumer may use to obtain a replacement certificate or card after expiration if the underlying funds may be available. Section 205.20(e)(3)(iii) requires certain disclosures on the certificate or card about expiration and replacement cards, except where a non-reloadable certificate or card bears an expiration date that is at least seven years from the date of manufacture. Section 205.20(f) requires additional fee disclosures on or with the certificate or card, and, similar to § 205.20(e)(3)(ii), disclosure on the certificate or card of a toll-free telephone number, and, if one is maintained, a Web site that a consumer may use to obtain fee information. As discussed in more detail in the final gift card rule, these provisions were adopted pursuant to the Board's authority under EFTA Sections 904(a) and 915(d)(2), as amended by the Credit Card Act.

Although not mandated by the Gift Card Amendment, the Board believes that §§ 205.20(e)(1), (e)(3)(iii), and (f) should also be subject to the delayed effective date in order to carry out the intended purpose of the Gift Card Amendment. For example, some gift cards produced before April 1, 2010 may bear expiration dates of less than five years, which would not comply with § 205.20(e)(1). If the Board did not provide for a delayed effective date with respect to § 205.20(e)(1), issuers would not be permitted to sell this existing

card stock, even if issuers otherwise satisfied the statutory prerequisites to qualify for relief under the Gift Card Amendment. Such a result would undermine the purpose of the Gift Card Amendment.

Finally, § 205.20(h)(1) delays the effective date of § 205.20(c)(3). Section 205.20(c)(3) requires that the disclosures required by §§ 205.20(d)(2), (e)(3), and (f)(1) be disclosed to the consumer prior to purchase. As discussed in more detail in the final gift card rule, § 205.20(c)(3) was adopted in the final rule both pursuant to statutory mandate (in EFTA Section 915(c)(3)(B)) and pursuant to the Board's authority under EFTA Section 904(a). For the reasons discussed above, under § 205.20(h)(1) of this interim final rule, any disclosures that are required to be provided prior to purchase under § 205.20(c)(3) are subject to the delayed effective date, provided that the issuer complies with the conditions specified in § 205.20(h)(1).

Conditions Imposed

To take advantage of the Gift Card Amendment's delayed effective date, an issuer of the certificate or card must meet several specified conditions. First, the issuer must comply with the other provisions of § 205.20, including the section's substantive restrictions on the imposition of fees. Second, the issuer must not impose an expiration date with respect to the funds underlying such a certificate or card. Third, the issuer must, at the consumer's request, replace such certificate or card if the certificate or card has funds remaining at no cost to the consumer. Finally, the issuer must satisfy the disclosure requirements of new § 205.20(h)(2), discussed in more detail below. *See* §§ 205.20(h)(1)(i)–(iv).

Comment 20(h)(1)–1 explains that certificates or cards produced prior to April 1, 2010 may be sold to a consumer for a limited time without satisfying the requirements of § 205.20(c)(3), (d)(2), (e)(1), (e)(3), and (f), provided that issuers of such certificates or cards comply with the additional substantive and disclosure requirements of §§ 205.20(h)(1)(i)–(iv). In contrast, issuers of certificates or cards produced prior to April 1, 2010 need not satisfy these additional requirements if the certificates or cards fully comply with the April 2010 final gift card rule. Thus, if on August 22, 2010 an issuer sells gift cards produced prior to April 1, 2010 that do not have fees and do not expire, and which otherwise comply with the final gift card rule, that issuer would not then be required to make the in-store signage and other disclosures required by § 205.20(h)(2) with respect to those gift cards because those cards satisfy the requirements of the final gift card rule.

Comment 20(h)(1)–2 clarifies when the temporary relief afforded by the Gift Card Amendment expires. This comment explains that certificates or cards produced prior to April 1, 2010 that do not fully comply with the final gift card rule may not be issued or sold to consumers on or after January 31, 2011.

20(h)(2) Additional Disclosures

In order for an issuer to take advantage of the delayed effective date, the Gift Card Amendment requires that certain alternative disclosures be made to the consumer. Section 205.20(h)(2) of the interim final rule implements these disclosure requirements, largely tracking the language of the statute. Specifically, § 205.20(h)(2) provides that issuers relying on the delayed effective date in § 205.20(h)(1) must disclose through in-store signage, messages during customer service calls, Web sites, and general advertising, that: (i) The underlying funds of such certificate or card do not expire; (ii) consumers holding such certificate or card have a right to a free replacement certificate or card, accompanied by the packaging and materials typically associated with such certificate or card; and (iii) any dormancy, inactivity, or service fee for such certificate or card that might otherwise be charged will not be charged if such fees do not comply with Section 915 of the Electronic Fund Transfer Act.

In some cases, issuers may not have direct control over in-store signage and store advertisements. Accordingly, comment 20(h)(2)–1 explains that issuers may make the disclosures required by § 205.20(h)(2) through a third party, such as a retailer or merchant. For example, an issuer may have a merchant install in-store signage with the disclosures required by § 205.20(h)(2) on the issuer's behalf.

20(h)(3) Expiration of Disclosure Requirements

The Gift Card Amendment requires the disclosures implemented in § 205.20(h)(2) to be maintained until January 31, 2013. The Board believes that such a requirement is appropriate with respect to Web sites that a certificate or card recipient may visit and phone numbers that a recipient may call for more information. For example, a gift card recipient may call a customer service phone number printed on the card to obtain more information about the card's fees or terms of expiration. *See* § 205.20(h)(3)(ii).

However, certificates or cards sold on or after January 31, 2011 must comply with §§ 205.20(a)–(f) of the final gift card rule. Because consumers would only be able to purchase cards that are fully compliant with the Credit Card Act from that date forward, consumers purchasing certificates or cards might mistakenly believe that the disclosures on the signage are applicable to their certificates or cards. Thus, the Board believes that requiring issuers to maintain advertisements or in-store signage on or after January 31, 2011 which reference certificates or cards that are no longer permitted to be issued or sold, could be confusing and even misleading to consumers.

For this reason, the Board is exercising its exception authority in EFTA Section 904(c) to provide that, with respect to in-store signage and general advertising, the disclosure requirements of § 205.20(h)(2) are not required to be provided on or after January 31, 2011. *See* § 205.20(h)(3)(i). Section 904(c) of the EFTA provides that regulations prescribed by the Board may contain any classifications, differentiations, or other provisions, and may provide for such adjustments or exceptions for any class of electronic fund transfers that in the judgment of the Board are necessary or proper to effectuate the purposes of the title, to prevent circumvention or evasion, or to facilitate compliance.

IV. Legal Authority

General Rulemaking Authority

Section 401(d)(1) of the Credit Card Act directs the Board to prescribe rules to carry out the gift card requirements of the Credit Card Act. The Board is exercising its authority under Section 401(d)(1) to implement the provisions of the Credit Card Act as superseded by the Gift Card Amendment with respect to the delayed effective date of the requirements in §§ 205.20(d)(2) and (e)(1)(i), and part of § 205.20(c)(3).

In addition, Section 401(d)(2) of the Credit Card Act requires the Board to determine the extent to which the individual definitions and provisions of the EFTA and Regulation E should apply to gift certificates, store gift cards, and general-use prepaid cards. *See* EFTA Section 915(d)(2); 15 U.S.C. 1693m(d)(2). Further, Section 904(a) of the EFTA authorizes the Board to prescribe regulations necessary to carry out the purposes of the title. The express purposes of the EFTA are to establish "the rights, liabilities, and responsibilities of participants in electronic fund transfer systems" and to provide "individual consumer rights."

See EFTA Section 902(b); 15 U.S.C. 1693. The Board is exercising its authority under EFTA Sections 904(a) and 915(d)(2) for the reasons discussed above to provide for the delayed effective date of the disclosure requirements of §§ 205.20(e)(1), 205.20(e)(3)(ii)-(iii), and 205.20(f), and part of § 205.20(c)(3).

Finally, as discussed above, the Board is exercising its authority under EFTA Section 904(c) to implement § 205.20(h)(3)(i), which clarifies that, with respect to in-store signage and general advertising, the disclosures required by § 205.20(h)(2) are not required to be provided on or after January 31, 2011.

Authority To Issue Interim Final Rule Without Notice and Comment

The Administrative Procedure Act (5 U.S.C. 551 *et seq.*) (APA) generally requires public notice before promulgation of regulations. *See* 5 U.S.C. 553(b). Unless notice or hearing is required by statute, however, the APA provides an exception "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B). The Board finds that, with respect to this rulemaking, there is good cause to conclude that providing notice and an opportunity to comment within the timeframe mandated by Congress is impracticable.

The gift card provisions of the Credit Card Act are effective August 22, 2010, and the Gift Card Amendment delays this effective date only with respect to certain specified disclosure provisions. The time period remaining before August 22, 2010 does not provide sufficient time for the Board to prepare proposed regulations and publish them in the **Federal Register**; provide a reasonable period for interested parties to review the proposal and prepare comments; analyze the comments submitted; and prepare the final regulations and publish them in the **Federal Register**. Even if the Board were able to technically comply with the notice-and-comment process required by § 553 within the allotted time, such a process would not comply with the purpose of the APA because interested parties would not have sufficient time to prepare well-researched comments and the Board would not have time to conduct a meaningful review and analysis of those comments. Furthermore, a notice-and-comment process would leave no time between the issuance of final regulations and August 22, 2010 for affected parties to adjust their procedures in order to comply. In contrast, the adoption of an interim final rule enables the Board to provide guidance in advance of the effective date and provides affected parties with more time to comply with the statutory provisions.

Authority To Issue an Interim Final Rule With an Effective Date of August 22, 2010

Because the gift card provisions of the Credit Card Act, and the rule promulgated thereunder, are effective on August 22, 2010, the Board's interim final rule implementing those provisions is also effective on that date. The APA generally requires that rules be published not less than 30 days before their effective date. *See* 5 U.S.C. 553(d). As with the notice requirement, however, the APA provides an exception when "otherwise provided by the agency for good cause found and published with the rule." Id. § 553(d)(3).

Notwithstanding the time saved by issuing an interim final rule without advance notice and the similarity of the new statutory provisions to regulations previously issued by the Board, the effective date is less than 30 days away, and thus it would not be possible to issue final regulations 30 days before the August 22, 2010 effective date. Accordingly, the Board finds that good cause exists to publish the interim final rule less than 30 days before the effective date.

Similarly, although 12 U.S.C. 4802(b)(1) generally requires that new regulations and amendments to existing regulations imposing additional reporting, disclosure or other requirements on insured depository institutions take effect on the first day of the calendar quarter which begins on or after the date on which the regulations are published in final form, the Board has determined that—for the reasons discussed above—there is good cause for making the interim final rule effective on August 22, 2010. *See* 12 U.S.C. 4802(b)(1)(A) (providing an exception to the general requirement when "the agency determines, for good cause published with the regulation, that the regulations should become effective before such time"). The Board also believes that providing the affected parties with guidance regarding compliance with the Gift Card Amendment as soon as possible is consistent with 12 U.S.C. 4802(b)(1)(C), which provides an exception to the general requirement when "the regulation is required to take effect on a date other than the date determined under [12 U.S.C. 4802(b)(1)] pursuant to any other Act of Congress." The remaining provisions of the rule are effective on August 22, 2010.

V. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an initial and final regulatory flexibility analysis only when 5 U.S.C. 553 requires publication of a notice of proposed rulemaking. *See* 5 U.S.C. 603(a), 604(a). As discussed in IV. Legal Authority, however, the Board has found good cause under 5 U.S.C. 553(b)(3)(B) to conclude that, with respect to this interim final rule, publication of a notice of proposed rulemaking is impracticable. Accordingly, the Board is not required to perform an initial or final regulatory flexibility analysis. Nonetheless, in order to solicit additional information from small entities subject to the interim final rule, the Board is publishing an interim final regulatory flexibility analysis. Based on its analysis and for the reasons stated below, the Board believes that the interim final rule is not likely to have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* This interim final rule implements the Gift Card Amendment by delaying the effective date of certain disclosures required by the Credit Card Act. This interim final rule also carries out the intended purpose of the Gift Card Amendment by delaying the effective date of certain supplemental requirements adopted the final gift card rule. The Board believes that these revisions to Regulation E are within Congress's broad grant of authority to the Board to adopt provisions that carry out the purposes of the Credit Card Act and to facilitate compliance with the EFTA. These revisions facilitate compliance with the EFTA by permitting gift certificates, store gift cards, and general-purpose prepaid cards produced prior to April 1, 2010 to be sold through January 31, 2011, even if they do not state the disclosures required under the final gift card rule, so long as consumers continue to receive specified substantive protections with respect to certificate or card fees and expiration dates.

2. *Small entities affected by the interim final rule.* The number of small entities affected by this interim final rule is unknown, as discussed in more detail in the Regulatory Flexibility Analysis in the final gift card rule. 75 FR 16610 (Apr. 1, 2010). The delayed effective date of certain disclosures on certificates and cards will reduce the burden and compliance costs for small

institutions by providing relief from the requirement to remove and destroy non-compliant certificates and cards and to replace them with compliant certificates or cards, so long as consumers are provided substantive rights under the rule and so long as alternative specified disclosures are made.

3. *Reporting, recordkeeping, and compliance requirements.* The compliance requirements of this interim final rule are described above in Part III. Section-by-Section Analysis.

4. *Steps taken to minimize economic impact on small entities.* As previously noted, the interim final rule implements the statutory mandate to delay the effective date of certain gift card provisions of the Credit Card Act. The interim final rule also delays the effective date of certain additional requirements finalized in the April 2010 final gift card rule. As such, the interim final rule minimizes the economic impact of the final gift card rule on small entities.

5. *Other Federal rules.* The Board has not identified any Federal rules that duplicate, overlap, or conflict with the interim final revisions to Regulation E.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the interim final rule under the authority delegated to the Board by the Office of Management and Budget (OMB). The collection of information that is subject to the PRA by this interim final rule is found in 12 CFR part 205. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless the information collection displays a currently valid OMB control number. The OMB control number is 7100–0200.

This information collection is required to provide benefits for consumers and is mandatory. *See* 15 U.S.C. 1693 *et seq.* Since the Board does not collect any information, no issue of confidentiality arises. The respondents/recordkeepers are for-profit financial institutions, including small businesses. Institutions are required to retain records for 24 months, but this regulation does not specify types of records that must be retained.

The Gift Card Amendment amends Section 403 of the Credit Card Act to delay the effective date of certain gift card disclosure provisions of the Credit Card Act for certificates or cards produced prior to April 1, 2010. The Gift Card Amendment provides an extended effective date with respect to these provisions in order to permit the sale of existing card stock until January 31, 2011. The interim final rule published today revises the April 2010 final gift card rule in order to implement the Gift Card Amendment.

While the interim final rule delays the implementation of several disclosure requirements (§§ 205.20(c)(3), (d)(2), (e)(1), and (e)(3)), and temporarily implements several other requirements (§§ 205.20(h)), it does not change the overall burden associated with Regulation E. The Federal Reserve believes that the original burden estimates are more than sufficient to cover the temporary requirements. The estimates and total burden (738,600 hours) therefore will remain unchanged as published in the final rule. The Federal Reserve continues to expect that the amount of time required to implement each of the proposed changes for a given institution may vary based on the size and complexity of the respondent.

The other Federal financial agencies are responsible for estimating and reporting to OMB the total paperwork burden for the institutions for which they have administrative enforcement authority. They may, but are not required to, use the Federal Reserve's burden estimation methodology. Using the Federal Reserve's method, the total annual burden for the respondents regulated by the Federal financial agencies is estimated to be 4,430,659 hours. This estimate also remains unchanged.

The Federal Reserve has a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0200), Washington, DC 20503.

List of Subjects in 12 CFR Part 205

Consumer protection, Electronic fund transfers, Federal Reserve System, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 205 and the Official Staff Commentary, as follows:

PART 205—ELECTRONIC FUND TRANSFERS (REGULATION E)

■ 1. The authority citation for part 205 continues to read as follows:

Authority: 15 U.S.C. 1693b.

■ 2. Section 205.20 is amended as follows:

■ A. Paragraph (c)(2) is revised.

■ B. Paragraph (g)(1) is revised.

■ C. New paragraph (h) is added.

§ 205.20 Requirements for gift cards and gift certificates.

* * * * *

(c) * * *

(2) *Format.* Disclosures made under this section generally must be provided to the consumer in written or electronic form. Except for the disclosures in paragraphs (c)(3) and (h)(2), written and electronic disclosures made under this section must be in a retainable form. Only disclosures provided under paragraphs (c)(3) and (h)(2) of this section may be given orally.

* * * * *

(g) * * *

(1) *Effective date for gift certificates, store gift cards, and general-use prepaid cards.* Except as provided in paragraph (h), the requirements of this section apply to any gift certificate, store gift card, or general-use prepaid card sold to a consumer on or after August 22, 2010, or provided to a consumer as a replacement for such certificate or card.

* * * * *

(h) *Temporary exemption*—(1) *Delayed effective date.* For any gift certificate, store gift card, or general-use prepaid card produced prior to April 1, 2010, the effective date of the requirements of paragraphs (c)(3), (d)(2), (e)(1), (e)(3), and (f) of this section is January 31, 2011, provided that an issuer of such certificate or card:

(i) Complies with all other provisions of this section;

(ii) Does not impose an expiration date with respect to the funds underlying such certificate or card;

(iii) At the consumer's request, replaces such certificate or card if it has funds remaining at no cost to the consumer; and

(iv) Satisfies the requirements of paragraph (h)(2) of this section.

(2) *Additional disclosures.* Issuers relying on the delayed effective date in § 205.20(h)(1) must disclose through in-store signage, messages during customer service calls, Web sites, and general advertising, that:

(i) The underlying funds of such certificate or card do not expire;

(ii) Consumers holding such certificate or card have a right to a free replacement certificate or card, accompanied by the packaging and materials typically associated with such certificate or card; and

(iii) Any dormancy, inactivity, or service fee for such certificate or card that might otherwise be charged will not

be charged if such fees do not comply with Section 915 of the Electronic Fund Transfer Act.

(3) *Expiration of additional disclosure requirements.* The disclosures in paragraph (h)(2) of this section:

(i) Are not required to be provided on or after January 31, 2011, with respect to in-store signage and general advertising.

(ii) Are not required to be provided on or after January 31, 2013, with respect to messages during customer service calls and Web sites.

■ 3. In Supplement I to part 205, under Section 205.20, new paragraph 20(h) is added to read as follows:

Supplement I to Part 205—Official Staff Interpretations

* * * * *

Section 205.20—Requirements for Gift Cards and Gift Certificates

* * * * *

20(h) Temporary Exemption

Paragraph 20(h)(1)—Delayed Effective Date

1. *Application to certificates or cards produced prior to April 1, 2010.* Certificates or cards produced prior to April 1, 2010 may be sold to a consumer on or after August 22, 2010 without satisfying the requirements of § 205.20(c)(3), (d)(2), (e)(1), (e)(3), and (f) through January 30, 2011, provided that issuers of such certificates or cards comply with the additional substantive and disclosure requirements of §§ 205.20(h)(1)(i) through (iv). In contrast, issuers of certificates or cards produced prior to April 1, 2010 need not satisfy these additional requirements if the certificates or cards fully comply with the rule (§§ 205.20(a) through (f)). For example, for gift cards produced prior to April 1, 2010 that do not have fees and do not expire, and which otherwise comply with the rule, the in-store signage and other disclosures required by § 205.20(h)(2) are not required with respect to those gift cards because those cards satisfy the requirements of the rule.

2. *Expiration of temporary exemption.* Certificates or cards produced prior to April 1, 2010 that do not fully comply with §§ 205.20(a) through (f) may not be issued or sold to consumers on or after January 31, 2011.

Paragraph 20(h)(2)—Additional Disclosures

1. *Disclosures through third parties.* Issuers may make the disclosures required by § 205.20(h)(2) through a third party, such as a retailer or merchant. For example, an issuer may have a merchant install in-store signage with the disclosures required by § 205.20(h)(2) on the issuer's behalf.

2. *General advertising disclosures.* Section 205.20(h)(2) does not impose an obligation on the issuer to advertise gift cards.

* * * * *

By order of the Board of Governors of the Federal Reserve System, August 11, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–20154 Filed 8–16–10; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 29

[Docket No. SW014; Special Conditions No. 29–014–SC]

Special Conditions: Erickson Air-Crane Incorporated S–64E and S–64F Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Erickson Air-Crane Incorporated (Erickson Air-Crane) model S–64E and S–64F rotorcraft. These rotorcraft have novel or unusual design features associated with being transport category rotorcraft designed only for use in heavy external-load operations. At the time of original type certification, a special condition was issued for each model helicopter because the applicable airworthiness regulations did not contain adequate or appropriate safety standards for turbine-engine rotorcraft or for rotorcraft with a maximum gross weight over 20,000 pounds that were designed solely to perform external load-operations. At the request of Erickson Air-Crane, the current type certificate (TC) holder for these helicopter models, the following will resolve reported difficulty in applying the existing special conditions and eliminate any confusion that has occurred in Erickson's dealings with a foreign authority. Specifically, we are consolidating the separate special conditions for each model helicopter into one special condition to clarify and more specifically reference certain special condition requirements to the regulatory requirements, to add an inadvertently omitted fire protection requirement, to recognize that occupants may be permitted in the two observer seats and the rear-facing operator seat during other than external-load operations, and to clarify the requirements relating to operations within 5 minutes of a suitable landing area. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* September 16, 2010.

FOR FURTHER INFORMATION CONTACT: Stephen Barbini, FAA, Rotorcraft Directorate, Regulations and Policy Group (ASW–111), Fort Worth, Texas 76193–0110, telephone (817) 222–5196, facsimile (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1967, Sikorsky Aircraft Corporation (Sikorsky) filed an application for type certification for its Model S–64E helicopter. This rotorcraft is the civil version of the United States Army Model CH–54A flying crane. The S–64E has a maximum weight of approximately 30,000 pounds when flying only with internal fuel loadings and personnel, and without external loads. It has a maximum weight of 42,000 pounds, of which a maximum of 20,000 pounds may be external loads. Type certificate H6EA that included special condition No. 29–6–EA–2 was issued on August 21, 1969. This special condition includes conditions for type certification for carrying Class B external loads.

On April 2, 1969, Sikorsky filed for an amendment to its type certificate to add the Model S–64F. This aircraft is the civil version of the United States Army Model CH–54B flying crane. The S–64F has a maximum weight of approximately 30,000 pounds when flying only with internal fuel loadings and personnel, and without external loads. It has a maximum weight of 47,000 pounds, of which a maximum of 25,000 pounds may be external loads. Type certificate H6EA was amended on November 25, 1970, to add the F model, including special condition No. 29–16–EA–5 and Amendment No. 1 to that special condition. This Model S–64F special condition includes requirements for type certification for carrying Class A and B external loads.

The 14 CFR part 29 regulations applicable at the time of certification required the models S–64E and S–64F to comply with Category A regulations.

However, strict adherence to those regulations was deemed inappropriate for these model aircraft and their intended operations. The special conditions created for the Model S–64E and Model S–64F combined the appropriate standards from both Category A and B, plus added safety and other requirements necessary to establish compliance with the airworthiness requirements of subpart D of 14 CFR part 133 for Class A and B rotorcraft load combinations. Additionally, the special conditions allowed operations under 14 CFR part 91. The combination of regulations and special conditions was established at a level of safety equivalent to 14 CFR part 29 requirements at the time of certification.

Both aircraft were specifically type certificated as "industrial flying cranes," which are used only to carry cargo and all cargo is carried as an external load. The cockpit contains only five seats, allowing for two pilots, an aft-facing hoist operator and two observers. The rotorcraft does not have a passenger compartment and is not designed to transport passengers. 14 CFR part 91 operations are allowed. The aircraft are powered by two Pratt and Whitney turbo shaft engines (Series JFTD12A); the S–64E uses the model 4A which generates 4,500 horsepower and the S–64F uses the model 5A which generates 4,800 horsepower. The engines drive a six-blade single main rotor approximately 72 feet in diameter and a four-blade tail rotor approximately 16 feet in diameter.

Since the time of original certification, 14 CFR part 29 has been modified to recognize that most transport category rotorcraft are being used in utility work, rather than in air carrier operations. The regulatory changes now enable a rotorcraft of more than 20,000 pounds and nine or less passenger seats to be certificated as Category B provided certain Category A subparts are met.

Since the S–64's certification, the regulations have been amended to better accommodate rotorcraft designed to operate under the external load provisions of 14 CFR part 133; however, no transport category rotorcraft (over 20,000 pounds) has been designed with the unique and novel features of the "skycrane." In 1992, the type certificate for the Model S–64E and Model S–64F was transferred from Sikorsky to Erickson Air-Crane Incorporated. In 2004, the Model S–64F received a type certificate from the European Aviation Safety Agency (EASA). In 2005, the Model S–64E was certificated to carry Class A external loads under 14 CFR part 133.

Type Certification Basis

The original type certification basis is as follows:

For the *Model S–64E:* 14 CFR part 29, 1 February 1965, including Amendments 29–1 and 29–2 except 14 CFR 29.855(d), and Special Condition No. 29–6–EA–2.

For the *Model S–64F:* 14 CFR part 29, dated 1 February 1965 including Amendments 29–1 and 29–2 except 14 CFR 29.855(d), and Special Condition No. 29–16–EA–5 including Amendment No. 1.

We have found that the applicable airworthiness regulations for 14 CFR part 29 do not contain adequate or appropriate safety standards for the Erickson S–64E and S–64F rotorcraft because of novel or unusual design features. Therefore, special conditions were prescribed under the provisions of § 21.16. Special conditions, as appropriate, are defined in § 11.19 and issued per § 11.38, and become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model per § 21.101(a)(1).

Novel or Unusual Design Features

The Erickson Air-Crane S–64 rotorcraft incorporates the following novel or unusual design features:

The aircraft was designed specifically as an industrial flying crane—

(a) With an airframe—

(1) Designed solely for external load capabilities with no passenger cabin and accommodations in the cockpit only for—

(i) One pilot,

(ii) One copilot,

(iii) One aft-stick operator, and

(iv) Two observers.

(2) Designed with two small baggage compartments in the nose.

(3) Designed with multiple "hard points," each with load ratings specifically for the carriage of external loads.

(b) With a rear-facing aft-stick operator seat, which allows for—

(1) Precision placement of external loads, and

(2) Limited flight operations capabilities.

(c) With neither engine equipped with a cowling.

(d) That weighs over 20,000 pounds, but is designed solely to carry cargo in external load operations.

Discussion

The type certification basis for the Model S–64E helicopter contained Special Condition No. 29–6–EA–2, dated January 13, 1969. The type certification basis for the model S–64F helicopter contained Special Condition No. 29–16–EA–5, issued December 3, 1969 and Amendment 1 to that Special Condition issued November 13, 1970. The special condition for the model S–64E included requirements for type certification without external loads (including flight conditions, propulsion conditions, systems condition, and operating limitations conditions) and requirements for type certification with external loads (including general conditions, flight conditions, propulsion conditions, systems condition, and operating conditions). The special condition, including Amendment 1 for the model S–64F, included essentially the same requirements as those for the model S–64E, but included additional requirements for Class A load combinations.

We have reviewed Special Conditions No. 29–6–EA–2 and No. 29–16–EA–5, including Amendment No. 1. We have determined that the original special conditions applied to the model S–64 ensure a level of safety equivalent to 14 CFR part 29 requirements at the time of certification for both the E and F model rotorcraft.

At the request of Erickson Air Crane, we are:

(a) Consolidating the special conditions for both model helicopters into one document.

(b) Indicating whether a special condition requirement is "in lieu of" or "in addition to" a standard certification requirement and making specific reference to the certification requirement. The original Special Conditions did not delineate the novel or unusual design features of the Air-Crane, which resulted in an unclear application of the "in addition to" and "in lieu of" requirements as they pertained to the rules existing at the time of certification.

(c) Referencing 14 CFR part 133 instead of the various rotorcraft load combination classes for the special condition requirements concerning placards.

(d) Modifying the occupancy special condition to allow passengers to be

transported, as otherwise permitted by the regulations. Operations are currently limited to occupants that are flight crewmembers, flight crewmember trainees, or other persons performing essential functions connected with external load operations or necessary for an activity directly associated with external load operations.

(e) Removing the special condition operating limitation that required the helicopters be operated so that a suitable landing area could be reached in no more than 5 minutes, and now requiring that only when flying over a congested area must the helicopter be operated so that a suitable landing area can be reached in no more than 5 minutes.

(f) Adding a requirement to comply with § 29.855(d), at Amendment level 29–3, effective February 25, 1968, which was excluded from the original special condition as indicated on the type certificate data sheet, requiring the baggage compartment in the airframe nose be sealed to contain cargo or baggage compartment fires.

Neither consolidating the requirements, specifying the "in lieu of" or "in addition to" references, nor referencing 14 CFR part 133 are intended to make any substantive changes from the requirements contained in Special Condition No. 29–6–EA–2 nor Special Condition 29–16–EA–5, as amended. However, we are modifying the "occupant" standard.

The original special conditions only permitted flight crewmembers, flight crewmember trainees, or persons performing an essential or necessary function in connection with the external load operation to be carried on board the helicopter. This occupancy standard was taken directly from 14 CFR 133.35, dealing with the carriage of persons during rotorcraft external-load operations. At the time of original certification, there was no intent to allow the carriage of persons other than crewmember trainees and those required in connection with the external-load operation. Flights conducted under 14 CFR part 91 regulations were only expected to occur when the helicopter was being re-positioned with two pilot crewmembers. In addition, limitations were placed on the S–64E and S–64F helicopter designs because they were not the typical transport category helicopter because they did not meet all appropriate 14 CFR part 29 transport category helicopter requirements. In particular, the designs do not include a power-plant fire extinguishing system and the related cowlings that assist in engine fire suppression.

Since original certification, operators have stated that they would like the option to use the additional three seats, which includes the one rear-facing seat occupied by a crewmember during external-load operations, to carry support crews between operational bases and the worksites. The intended effect of removing the essential crewmember and crewmember trainee limitation recognizes that these model helicopters are not operated exclusively under 14 CFR part 133. Under this special condition, we recognize that the two observer seats and the rear-facing aft-stick operator's seat *may* be occupied by persons other than persons performing an essential or necessary function in connection with the external load operation during 14 CFR part 91 operations. The intent of this provision is to allow the two observer seats and the rear-facing operator's seat, when the rear-facing aft-stick operator's controls are disengaged and the collective guard is installed to prevent unintentional movement, to be occupied during other than external-load operations. As described in the FAA approved flight manual, the aft-stick operator's controls are only to be engaged when a qualified crewmember is at the main and aft-stick operator's controls.

From an engine-fire safety standpoint, single-engine helicopters certificated to Category B requirements of 14 CFR part 29 are permitted to carry up to nine passengers. However, if an engine fails due to a fire, although the fire may be extinguished, the helicopter will still be forced to execute an auto-rotation. Depending on where the helicopter is operating, a safe autorotative landing may not be possible. In addition, helicopters certificated to 14 CFR part 27 requirements are not required to have a power-plant fire protection system, but are certificated to carry up to nine passengers. If a twin-engine model S–64E or S–64F helicopter has an engine failure due to an engine fire, these helicopters can still fly on a single engine and the certification standards require that they must be safely controlled so that the essential structure, controls, and parts can perform their essential functions for at least five minutes in order to reach a possible suitable landing area.

Although we are removing the "occupant" limitation, when conducting other than external-load operations, which most commonly we anticipate may be 14 CFR part 91 operations, operators will still be required to comply with the other FAA operating requirements applicable to their particular operation.[1]

Another current special condition operating limitation requires that the helicopters be operated at an altitude and over routes which provide suitable landing areas that can be reached in no more than 5 minutes. We are qualifying this limitation and only require this limitation when the helicopters are operated over a congested area. The 5-minute portion of the limitation complements the fire protection requirements in § 29.861, which for Category B rotorcraft requires that certain structure, controls, and other essential parts be able to perform their essential functions for at least 5 minutes under foreseeable powerplant fire conditions. Relaxing the limitation by allowing flights over other than congested areas that may not be within the 5-minute distance still exceeds the safety standard in the current § 133.33(d) provision, which allows the holder of a Rotorcraft External-Load Operator Certificate to conduct rotorcraft external-load operations under certain circumstances over congested areas notwithstanding the requirements of 14 CFR part 91. Therefore, this is consistent with that standard.

We are also changing the current type certification basis of both model helicopters that excludes the requirement to comply with § 29.855(d). At the time of the application for type certification of the model S–64E

[1] Some operational regulations that may apply during 14 CFR part 91 operations include, 14 CFR 61.113(a) which, with some exceptions, prohibits a private pilot from acting as pilot in command of an aircraft carrying passengers for compensation or hire, and from acting as pilot in command for compensation or hire. An exception to 14 CFR 61.113(a), 14 CFR 61.113(b) allows a private pilot to act as pilot in command of an aircraft for compensation or hire in connection with any business or employment if the flight is only incidental to that business or employment and the aircraft does not carry passengers or property for compensation or hire. Another regulation, 14 CFR 119.33 prohibits a person from providing or offering to provide air transportation when that person has control over the operational functions performed in providing that transportation unless that person has an air carrier certificate and operations specifications. Under our regulations, "compensation" has been interpreted very broadly and "need not be direct nor in the form of money. Goodwill is a form of prohibited compensation." *Administrator* v. *Murray,* EA–5061, October 29, 2003 citing *Administrator* v. *Blackburn,* 4 NTSB 409 (1982).

Intangible benefits, such as the expectation of future economic benefit or business, are sufficient to "render a flight one for "compensation or hire"." See, e.g., *Administrator* v. *Platt,* NTSB Order No. EA–4012 (1993) at 6; *Administrator* v. *Blackburn,* 4 NTSB 409 (1982), aff'd., *Blackburn* v. *NTSB, NTSB, 709 F.2d 1514 (9th Cir. 1983); Administrator* v. *Pingel,* NTSB Order No. EA–3265, at n.4 (1991); *Administrator* v. *Mims,* NTSB Order No. EA–3284 (1991).

helicopter on November 27, 1967, and before the changes to 14 CFR part 29 by Amendment level 29–3, effective February 25, 1968, § 29.855(d) required that cargo and baggage compartments be designed or have a device to ensure detection of fires by a crewmember at his station to prevent entry of harmful substances into the crew or passenger compartment. In Notice 65–42 in Proposal 22 published on December 28, 1965 (30 FR 16129, 16139), we proposed to change § 29.855(d) because experience had shown that the design requirements for cargo and baggage compartments were not specific enough for compartments that are not sealed against fire and for cargo-only compartments. Because of the novel design of this helicopter, it did not have a typical transport category rotorcraft cargo or baggage compartment, only two small baggage compartments in the nose of the rotorcraft that are inaccessible during flight. Since the model S–64E helicopter was not the type of transport category rotorcraft envisioned when the transport category requirements of 14 CFR part 29 were adopted to address rotorcraft use in air carrier service and the necessary higher degree of safety to protect common carriage passengers and the fact that the model S–64E did have a sealed cargo compartment meeting the new proposed standard in Notice 65–42, the type certification basis for the model S–64E helicopter excluded the requirements of § 29.855(d). The model S–64E would later be shown to be in compliance with § 29.855(d) at Amendment 29–3 because that amendment would not require a fire detection device for cargo and baggage compartments provided they are sealed to contain fires. The type certification basis for the model S–64F is the same as that for the model S–64E. Therefore, we are adding back to the type certification basis for both model helicopters the requirement to comply with § 29.855(d), at Amendment level 29–3, effective February 25, 1968.

Discussion of Comments

Notice of proposed special conditions No. 29–014–SC for the Erickson Air-Crane Incorporated S–64E and S–64F rotorcraft was published in the **Federal Register** on December 29, 2009 (74 FR 68731). No comments were received, and the special conditions are adopted as proposed.

Applicability

This special condition is applicable to the Erickson Air-Crane Model S–64E and Model S–64F rotorcraft. Should Erickson Air-Crane apply later for a change to the type certificate to include another model incorporating the same novel or unusual design features, this special condition would apply to that model according to the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the model S–64E and S–64F helicopters. It is not a rule of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the helicopter.

List of Subjects in 14 CFR Parts 21 and 29

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the Special Condition No. 29–6–EA–2, Docket No. 9351, issued January 13, 1969 for the Model S–64E and Special Condition No. 29–16–EA–5, Docket No. 10002, issued December 3, 1969 and Amendment 1 to Special Condition No. 29–16–EA–5, issued November 13, 1970 for the Model S–64F, are removed and the following special condition is added as part of the type certification basis for Erickson Air-Crane models S–64E and S–64F helicopters. Unless otherwise noted, all regulatory references made within this special condition pertain to those 14 CFR part 29 regulations in effect at Amendment level 29–2, effective June 4, 1967 (32 FR 6908, May 5, 1967).

(a) *Takeoff and Landing Distance.* Because of the S–64's novel design as an industrial flying crane, the following apply:

(1) For operations without external load, the takeoff and landing distance must be determined by flight tests over the ranges of weight, altitude, and temperature for which takeoff and landing data are scheduled. The flight tests must encompass the critical areas of a takeoff and landing flight path from a 50-foot hover. If the takeoff and landing distance throughout the operational range to be approved are zero, the minimum takeoff and landing area length must be one and one-half times the maximum helicopter overall length (main rotor forward tip path to tail rotor aft tip path) and the area width must be one and one-half times main rotor tip path diameter. Additionally, this information must be furnished in the performance information section of the Rotorcraft Flight Manual.

(2) For Class A rotorcraft load combination operations:

(i) Compliance must be shown with the provisions of § 29.51 (Takeoff data: General), except that in paragraph (a) of § 29.51, the references to §§ 29.53(b) (Critical decision point) and 29.59 (Takeoff path: Category A) are not applicable.

(ii) In lieu of the requirements of §§ 29.53 and 29.59, the following apply:

(A) Compliance must be shown with the provisions of § 29.63 (Takeoff: Category B),

(B) The horizontal takeoff distance to a point 50 feet above the plane of the takeoff surface must be established with both engines operating within their approved limits, and

(C) The takeoff climbout speed must be established.

(iii) Compliance must be shown with the provisions of § 29.79 (Limiting height-speed envelope).

(3) For Class B rotorcraft load combination operations:

(i) Compliance must be shown with § 29.51 (Takeoff data: General), except that in paragraph (a), the references to §§ 29.53(b) (Critical decision point), 29.59 (Takeoff path: Category A) and 29.67(a)(1) and (2) (Climb: One engine inoperative) are not applicable.

(ii) In lieu of the requirements of §§ 29.53 and 29.59, compliance must be shown with the provisions of § 29.63 (Takeoff: Category B).

(b) *Climb.* Because of the S–64's novel design as an industrial flying crane, the following apply:

(1) For Class A rotorcraft load combination operations, in lieu of the requirements of §§ 29.67 (Climb: One engine inoperative) and 29.71 (Helicopter angle of glide: Category B), compliance must be shown with §§ 29.65(a) (Category B climb: All engines operating) and 29.67(a)(1) and (2) (Climb: One engine inoperative).

(2) For Class B rotorcraft load combination operations, in lieu of the requirements of §§ 29.67 (Climb: One engine inoperative) and 29.71 (Helicopter angle of glide: Category B), compliance must be shown with § 29.65 (Category B climb: All engines operating).

(c) *Landing.* Because of the S–64's novel design as an industrial flying crane, for Class A rotorcraft load combination operations, in lieu of the requirements of §§ 29.77 (Balk landing: Category A) and 29.75 (Landing), compliance must be shown for 29.75(b)(5), and the following apply:

(1) The horizontal distance required to land and come to a complete stop,

from a point 50 feet above the landing surface must be determined with a level, smooth, dry, hard surface.

(2) The approach and landing may not require exceptional piloting skill or exceptionally favorable conditions.

(3) The landing must be made without excessive vertical acceleration or tendency to bounce, nose over, or ground loop.

(4) The landing data must be determined at each weight, altitude, and temperature for which certification is sought with one engine inoperative and the remaining engine operating within approved operating limitations.

(5) The approach and landing speeds must be selected by the applicant and must be appropriate to the type rotorcraft.

(6) The approach and landing path must be established to avoid the critical areas of a limiting height-speed envelope established under § 29.79.

(d) *Performance at Minimum Operating Speed.* Because of the S–64's novel design as an industrial flying crane, in lieu of the requirements of § 29.73 (Performance at minimum operating speed) the following apply:

(1) For operations without external load, the hovering performance must be determined at 50 feet or more above the takeoff surface over the ranges of weight, altitude, and temperature for which takeoff data are scheduled. This must be shown with the most critical engine inoperative, the remaining engine at not more than the maximum certificated single engine rated power, and the landing gear extended.

(2) For Class A rotorcraft load combination operations, the hovering performance must be determined over the ranges of weight, altitude, and temperature for which certification is requested, and takeoff data must be scheduled—

(i) Up to takeoff power on each engine;

(ii) With landing gear extended; and

(iii) The helicopter at a height consistent with normal takeoff procedures.

(3) For Class B rotorcraft load combination operations, the hovering performance must be determined over the ranges of weight, altitude, and the temperature for which certification is requested, and takeoff data must be scheduled—

(i) Up to takeoff power on each engine;

(ii) With landing gear extended; and

(iii) The rotorcraft out of ground effect.

(e) *Airspeed Indicating System.* Because of the S–64's novel design as an industrial flying crane, for operations with and without external load, compliance must be shown with § 29.1323 (Airspeed indicating system) effective February 25, 1968 (Amendment 29–3), modified as follows:

(1) In addition to the flight conditions prescribed in subparagraph (b)(1), the system must be calibrated at operational rates of climb.

(2) In lieu of the speed range prescribed in subparagraph (c)(1), the airspeed error may not exceed the requirements throughout the speed range in level flight at forward airspeeds of 35 knots or more.

(f) *Power Boost and Power-Operated Control System.* Because of the S–64's novel design as an industrial flying crane, for operations without external load, in lieu of the requirements of § 29.695(a)(1) (Power boost and power-operated control system) as it applies to any single failure of the main rotor tandem servo housing, the following apply:

(1) It must be shown by endurance tests of the tandem servo that failure of the servo housing is extremely improbable.

(2) A tandem servo life limit must be established.

(3) A periodic inspection program for the tandem servo must be established.

(4) The hydraulic system must be provided with means to ensure that system pressure, including transient pressure and pressure from fluid volumetric changes in components which are likely to remain closed long enough for such changes to occur—

(i) Are within 90 to 110 percent of pump average discharge pressure at each pump outlet or at the outlet of the pump transient pressure dampening device, if provided; and

(ii) May not exceed 135 percent of the design operating pressure, excluding pressures at the outlets specified in subparagraph (i) above. Design operating pressure is the maximum steady operating pressure.

(g) *Propulsion Conditions.* Because of the S–64's novel design as an industrial flying crane, its powerplant was designed without a cowling, and does not include a fire extinguishing system. Therefore, in lieu of the requirements of §§ 29.861(a) (Fire protection of structure, controls, and other parts), 29.1187(e) (Drainage and ventilation of fire zones), 29.1195 (Fire extinguishing systems), 29.1197 (Fire extinguishing agents), 29.1199 (Extinguishing agent containers), and 29.1201 (Fire extinguishing system materials), the following apply:

(1) *Fire protection of structure, control and other parts.* Compliance must be shown with § 29.861(b) (Fire protection of structure, controls, and other parts) so each part of the structure, controls, rotor mechanism, and other parts essential to controlled landing and flight must be protected so they can perform their essential functions for at least 5 minutes under any foreseeable powerplant fire condition.

(2) *Powerplant fire protection.* In addition to compliance with § 29.1183 (Lines and fittings), except for lines and fittings approved as part of the engine type certificate under 14 CFR part 33, design precautions must be taken in the powerplant compartment to safeguard against the ignition of fluids or vapors which could be caused by leakage or failure in flammable fluid systems.

(3) *Exhaust system drains.* In addition to compliance with § 29.1121 (Exhaust system: General), compliance must be shown with § 29.1121(h) (Exhaust system: General) effective February 25, 1968 (Amendment 29–3) in that if there are significant low spots or pockets in the engine exhaust system, the system must have drains that discharge clear of the rotorcraft, in normal ground and flight attitudes, to prevent the accumulation of fuel after the failure of an attempted engine start.

(4) *Rotor drive system testing.* If the engine power output to the transmission can exceed the highest engine or transmission power rating and the output is not directly controlled by the pilot under normal operating conditions (such as the control of the primary engine power control by the flight control), in addition to the endurance tests prescribed in § 29.923 (Rotor drive system and control mechanism tests), the following test must be made:

(i) With all engines operating, apply torque at least equal to the maximum torque used in meeting § 29.923 plus 10 percent for at least 220 seconds.

(ii) With each engine, in turn, inoperative, apply to the remaining transmission power inputs the maximum torque attainable under probable operating conditions, assuming that torque limiting devices are functioning properly. Each transmission input must be tested at this maximum torque for at least 5 minutes.

(5) *Powerplant installation.* In addition to the requirements of § 29.901 (Installation), compliance must be shown with § 29.901(b)(5) (Installation) effective February 25, 1968 (Amendment 29–3) in that the axial and radial expansion of the engines may not affect the safety of the powerplant installation.

(6) *Powerplant operation characteristics.* In addition to the requirements of § 29.939 (Turbine

engine operating characteristics), the powerplant operating characteristics must be investigated in flight to determine that no adverse characteristics, such as stall, surge, or flameout are present to a hazardous degree during normal and emergency operation of the helicopter within the range of operating limitations of the helicopter and of the engine.

(7) *Powerplant control system.* In addition to the requirements of § 29.1141 (Powerplant controls: General), the powerplant control system must be investigated to ensure that no single, likely failure or malfunction in the helicopter installed components of the system can cause a hazardous condition that cannot be safely controlled in flight.

(8) *Fuel pump installation.* In addition to the requirements of § 29.991 (Fuel pumps), there must be provisions to maintain the fuel pressure at the inlet of the engine fuel system within the limits established for engine operation throughout the operating envelope of the helicopter.

(9) *Fuel strainer.* In addition to the requirements of § 29.997 (Fuel strainer or filter), compliance must be shown with § 29.997(e) (Fuel strainer or filter) effective February 25, 1968 (Amendment 29–3) in that unless there are means in the fuel system to prevent the accumulation of ice on the filter, there must be means to automatically maintain the fuel flow if ice-clogging of the filter occurs.

(10) *Cooling test.* In lieu of the requirements of § 29.1041(a) (Powerplant cooling: General), which includes requirements for reciprocating engines, compliance must be shown with § 29.1041(a) (Powerplant cooling: General) effective February 25, 1968 (Amendment 29–3) in that the powerplant cooling provisions must maintain the temperatures of powerplant components and engine fluids within safe values under critical surface and flight operating conditions and after normal engine shutdown.

(11) *Induction system icing protection.* The S–64 has two turbine engines; therefore, in lieu of § 29.1093 (Induction system icing protection), which includes requirements for reciprocating engines, compliance must be shown with § 29.1093(b) (Induction system icing protection) effective February 25, 1968 (Amendment 29–3) in that each engine must operate throughout its flight power range, without adverse effect on engine operation or serious loss of power or thrust under the icing conditions specified in appendix C of 14 CFR part 25.

(12) *Induction system duct.* The S–64 has two turbine engines; therefore, in lieu of § 29.1091(d) and (e) (Air induction), which includes requirements for reciprocating engines, compliance must be shown with § 29.1091(f) (Air induction) effective February 25, 1968 (Amendment 29–3) in that:

(i) There must be means to prevent hazardous quantities of fuel leakage or overflow from drains, vents, or other components of flammable fluid systems from entering the engine intake system.

(ii) The air inlet ducts must be located or protected to minimize the ingestion of foreign matter during takeoff, landing, and taxiing.

(h) *Powerplant Instruments.* At the time of original certification, the S–64 had a novel design of being powered by two turbine engines; therefore, in lieu of § 29.1305 (Powerplant instruments), which includes requirements for reciprocating engines, compliance must be shown with § 29.1305 (Powerplant instruments) effective February 25, 1968 (Amendment 29–3) in that the following are required powerplant instruments:

(1) A fuel quantity indicator for each fuel tank.

(2) If an engine can be supplied with fuel from more than one tank, a warning device to indicate, for each tank, when a 5-minute usable fuel supply remains when the rotorcraft is in the most adverse fuel feed condition for that tank, regardless of whether that condition can be sustained for the 5 minutes.

(3) An oil pressure warning device for each pressure lubricated gearbox to indicate when the oil pressure falls below a safe value.

(4) An oil quantity indicator for each oil tank and each rotor drive gearbox, if lubricant is self-contained.

(5) An oil temperature indicator for each engine.

(6) An oil temperature warning device for each main rotor drive gearbox to indicate unsafe oil temperatures.

(7) A gas temperature indicator for each turbine engine.

(8) A gas producer rotor tachometer for each turbine engine.

(9) A tachometer for each engine that, if combined with the instrument required by subparagraph (10) of this paragraph, indicates rotor rpm during autorotation.

(10) A tachometer to indicate the main rotor rpm.

(11) A free power turbine tachometer for each engine.

(12) A means for each engine to indicate power for that engine.

(13) An individual oil pressure indicator for each engine, and either an independent warning device for each engine or a master warning device for the engines with means for isolating the individual warning circuit from the master warning device.

(14) An individual fuel pressure indicator or equivalent device for each engine, and either an independent warning device for each engine or a master warning device for the engines with means for isolating the individual warning circuit from the master warning device.

(15) Fire warning indicators.

(i) *Cargo and baggage compartments.* Since the S–64 includes an unusual design in that the baggage compartments are located in the nose of the airframe and are inaccessible during flight, in lieu of § 29.855(d), compliance must be shown with § 29.855(d) effective February 25, 1968 (Amendment 29–3) so that each cargo and baggage compartment is sealed to contain cargo or baggage compartment fires completely without endangering the safety of the rotorcraft or its occupants.

(j) *Auxiliary Control Station.* The S–64 includes a novel design for an optional aft-facing pilot position (auxiliary control station) which is used during precision placement rotorcraft load combination operations. There are no specific requirements in the airworthiness standards for this type of pilot position. Therefore, if the auxiliary control station is equipped with flight controls—

(1) The rotorcraft must be safely controllable by the auxiliary controls, throughout the range of the auxiliary controls.

(2) The auxiliary controls may not interfere with the safe operation of the rotorcraft by the pilot or copilot when the station is not occupied.

(3) The auxiliary control station and its associated equipment must allow the operator to perform his or her duties without unreasonable concentration or fatigue.

(4) The vibration and noise characteristics of the auxiliary control station appurtenances must not interfere with the operator's assigned duties to an extent that would make the operation unsafe.

(5) The auxiliary control station must be arranged to give the operator sufficiently extensive, clear, and undistorted view for safe operation. The station must be free of glare and reflection that could interfere with the operator's view.

(6) There must be provisions to prevent unintentional movement of the controls when the rear-facing aft-stick operator's seat is occupied by other than essential crewmembers during other than external-load operations.

(k) *Quick-Release Devices.* The S–64 is specifically designed for rotorcraft load combination operations with particular weight-specified hard points designed into the airframe. Because of this unusual design, when quick release devices are required under 14 CFR part 133, it must enable the pilot to release the external-load quickly during flight. The quick-release system must comply with the following:

(1) An activating control for the quick-release system must be installed on one of the pilot's primary controls and must be designed and located so it may be operated by the pilot without hazardously limiting his or her ability to control the rotorcraft during an emergency situation.

(2) An alternative independent activating control for the quick-release system must be provided and must be readily accessible to the pilot or a crewmember.

(3) The design of the quick-release system must ensure that failure, which could prevent the release of external loads, is extremely improbable.

(4) The quick-release system must be capable of functioning properly after failure of all engines.

(5) The quick-release system must function properly with external loads up to and including the maximum weight for which certification is requested.

(6) The quick-release system must include a means to check for proper operation of the system at established intervals.

(l) *Maximum Weight with External Load.* When establishing compliance with § 29.25, the maximum weight of the rotorcraft-load combination for operations with external loads must be established by the applicant and may not exceed the weight at which compliance with all applicable requirements has been shown.

(m) *External Load Jettisoning.* The external load must be jettisonable to the maximum weight for which the helicopter has been type certificated for operation without external loads or with Class A loads.

(n) *Minimum Flight Crew.* To meet the requirements of § 29.1523, the minimum flight crew consists of a pilot and a copilot. For pickup of the external-load and on-site maneuvering and release of the external-load, the copilot may act as the aft-facing hoist operator.

(o) *Occupancy.* When engaged in operations other than external-load operations under 14 CFR part 133, the carriage of passengers in the two observer seats and the rear-facing aft-stick operator's seat, when the aft-stick operator's controls are disengaged and the collective guard is installed, will be controlled by the FAA operating requirements applicable to that particular operation.

(p) *Operations.* The S–64 meets the Category B fire protection requirements for structures and controls in lieu of Category A requirements. Therefore, when operating over congested areas, the rotorcraft must be operated at an altitude and over routes that provide suitable landing areas that can be reached in no more than 5 minutes.

(q) *Markings and Placards.* For purposes of rotorcraft load combination operations, the following markings and placards must be displayed conspicuously and must be applied so they cannot be easily erased, disfigured, or obscured.

(1) A placard, plainly visible to appropriate crewmembers, referring to the helicopter flight manual limitations and restrictions for rotorcraft load combinations allowed under 14 CFR part 133.

(2) A placard, marking, or instructions (displayed next to the external-load attaching means) stating the maximum external-load prescribed as an operating limitation for rotorcraft load combinations allowed under 14 CFR part 133.

(3) A placard in the cockpit prescribing the occupancy limitation during rotorcraft load combination operations under 14 CFR part 133.

Issued in Fort Worth, Texas, on August 4, 2010.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–19921 Filed 8–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0902; Airspace Docket No. 09–ANM–16]

Modification of Class E Airspace; Astoria, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will amend Class E airspace at Astoria, OR, to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Astoria Regional Airport. This will improve the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also will correct the airport name from Port of Astoria Airport, and makes minor adjustments to the legal description of the airspace.

DATES: Effective date, 0901 UTC, November 18, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On November 13, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend controlled airspace at Astoria, OR (74 FR 58573). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E surface airspace, and adding additional Class E airspace extending upward from 700 feet above the surface, at Astoria Regional Airport, to accommodate IFR aircraft executing new RNAV GPS SIAP at the airport. This action is necessary for the safety and management of IFR operations. This action also makes a minor correction to the legal description for Class E airspace extending upward from 700 feet above the surface to coincide with the FAA's National Aeronautical Navigation Services, and corrects the airport name from Port of Astoria Airport to Astoria Regional Airport.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not

a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Astoria Regional Airport, Astoria, OR.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ANM OR E2 Astoria, OR [Modified]

Astoria Regional Airport, Astoria, OR
(Lat. 46°09′29″ N., long. 123°52′43″ W.)
Camp Rilea Heliport
(Lat. 46°06′59″ N., long. 123°55′54″ W.)

Within a 4-mile radius of the Astoria Regional Airport, and within 1.8 miles each side of the Astoria Regional Airport 268° bearing extending from the 4-mile radius to 7 miles west of the Astoria Regional Airport, and within 1.8 miles each side of the Astoria Regional Airport 095° bearing extending from the 4-mile radius to 12.1 miles east of the Astoria Regional Airport, excluding the airspace within a wedge south of Camp Rilea Heliport, from the 120° bearing clockwise to the 225° bearing of the Camp Rilea Heliport. This Class E airspace area is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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

* * * * *

ANM OR E5 Astoria, OR [Modified]

Astoria Regional Airport, Astoria, OR
(Lat. 46°09′29″ N., long. 123°52′43″ W.)
Seaside Municipal Airport
(Lat. 46°00′54″ N., long. 123°54′28″ W.)

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Astoria Regional Airport, within 4 miles north and 8.3 miles south of the Astoria Regional Airport 268° bearing extending from the 6.5-mile radius to 15.9 miles west of Astoria Regional Airport, excluding the portion within a 1.8-mile radius of Seaside Municipal Airport; and within 4 miles northeast and 8.3 miles southwest of the Astoria Regional Airport 326° bearing extending from the 6.5-mile radius to 21.4 miles northwest of Astoria Regional Airport; and within 4 miles north and 4 miles south of the Astoria Regional Airport 096° bearing extending from the 6.5-mile radius to 12 miles east, and 8.3 miles north and 4 miles south of the Astoria Regional Airport 096° bearing from 12 miles east, to 28.3 miles east of Astoria Regional Airport; and within a 15.9-mile radius of Astoria Regional Airport extending clockwise from the 326° bearing to the 347° bearing; and within a 23.1-mile radius of Astoria Regional Airport extending clockwise from the 347° bearing to the 039° bearing extending from the 15.9-mile radius to a 23.1-mile radius of Astoria Regional Airport extending clockwise from the airport 039° bearing to the airport 185° bearing.

Issued in Seattle, Washington, on August 9, 2010.

Lori Andriesen,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010–20215 Filed 8–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 24, 162, 163, and 178

[USCBP–2008–0060; CBP Dec. 10–26]

RIN 1515–AD60 (Formerly 1505–AB84)

Dominican Republic—Central America—United States Free Trade Agreement

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, interim amendments to title 19 of the Code of Federal Regulations ("CFR") which were published in the **Federal Register** on June 13, 2008, as CBP Dec. 08–22 to implement the preferential tariff treatment and other customs-related provisions of the Dominican Republic—Central America—United States Free Trade Agreement.

DATES: Final rule effective September 16, 2010.

FOR FURTHER INFORMATION CONTACT:

Textile Operational Aspects: Robert Abels, Trade Policy and Programs, Office of International Trade, (202) 863–6503.

Other Operational Aspects: Seth Mazze, Trade Policy and Programs, Office of International Trade, (202) 863–6567.

Legal Aspects: Karen Greene, Regulations and Rulings, Office of International Trade, (202) 325–0041.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2004, the governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and the United States signed the Dominican Republic—Central America—United States Free Trade Agreement ("CAFTA–DR" or "Agreement").

The provisions of the CAFTA–DR were adopted by the United States with the enactment on August 2, 2005, of the Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (the "Act"), Public Law 109–53, 119 Stat. 462 (19 U.S.C. 4001 *et seq.*). Section 210 of the Act requires that regulations be prescribed as necessary to implement these provisions of the CAFTA–DR.

On June 13, 2008, CBP published CBP Dec. 08–22 in the **Federal Register** (73

FR 33673), setting forth interim amendments to implement the preferential tariff treatment and customs-related provisions of the CAFTA–DR. In order to provide transparency and facilitate their use, the majority of the CAFTA–DR implementing regulations set forth in CBP Dec. 08–22 were included within subpart J in part 10 of the CBP regulations (19 CFR subpart J, part 10). However, in those cases in which CAFTA–DR implementation was more appropriate in the context of an existing regulatory provision, the CAFTA–DR regulatory text was incorporated in an existing part within the CBP regulations.

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures and took effect on June 13, 2008, CBP Dec. 08–22 provided for the submission of public comments that would be considered before adopting the interim regulations as a final rule. The prescribed public comment period closed on August 12, 2008.

Discussion of Comment Received in Response to CBP Dec. 08–22

Only one response was received to the solicitation of comments on the interim rule set forth in CBP Dec. 08–22. The points raised by the commenter are discussed below.

Comment: The commenter referenced § 10.584(a)(4) of the interim regulations which sets forth a statement that must be included as part of the certification on which an importer may rely in making a preference claim under the CAFTA–DR. In regard to the second sentence of the statement, concerning the maintenance and presentation of documentation in support of representations made in the certification, the commenter recommended that this language be amended to provide a time period within which the documentation must be maintained. The commenter recommends a time period of 18 months from the date of execution of the certification.

CBP's Response: Section 10.587(a) of the CBP regulations, concerning the maintenance of records, implements Article 4.19.2 of the CAFTA–DR by providing that all records and documents that an importer has in support of a claim for preferential tariff treatment under the CAFTA–DR must be maintained for a minimum of five years after the date of importation. CBP believes it is unnecessary to repeat this time period for the retention of records in the statement set forth in § 10.584(a)(4).

Comment: The commenter requested a clarification of § 10.584(f), which states that a properly completed, signed, and dated certification will be accepted as valid for four years following the date on which it was signed.

CBP's Response: Section 10.584(f) reflects Article 4.16.5 of the CAFTA–DR which provides that the "* * * certification shall be valid for four years after the date it was issued." CBP believes that this provision potentially impacts upon the acceptability of CAFTA–DR preference claims made by U.S. importers that are based on certifications. An importer may make such a claim based either on a certification or on the importer's knowledge that the good qualifies as an originating good. *See* § 10.583(a). If the certification forms the basis for the claim, § 10.584(a)(2) requires that the certification be in the possession of the importer at the time the claim is made. A certification will not be accepted as a valid basis for a preference claim if it predates the date of the claim by more than four years; however, it may serve as the basis for a new certification that would be acceptable.

It should be noted that the four-year limitation on the validity of a certification will not be a factor in any subsequent verification by CBP of a CAFTA–DR preference claim, assuming that the claim was based on a properly completed and timely certification. For example, if CBP conducts a verification of a CAFTA–DR claim more than four years after the date of the certification upon which the claim was based, the fact that the four-year period has expired at that point will not serve as a basis for CBP to deny the claim. Again, this assumes that the certification was valid in all respects at the time the claim for preferential tariff treatment was made to CBP.

Comment: The commenter asserted that § 10.585(a)(1) and (a)(2) impose impossible obligations on the importer. These provisions state that an importer who makes a claim for preferential tariff treatment under the CAFTA–DR (1) will be deemed to have "certified" that the good is eligible for such treatment; and (2) is responsible for the truthfulness of the claim and the information in the certification. According to the commenter, unless the importer has conducted an audit of the producer's books and records, it cannot "certify" that the good is eligible for preference or attest to the truthfulness of the claim and the information in the certification. In this regard, the commenter noted that some producers may be reluctant to open their books and records to their customers, including U.S. importers.

CBP's Response: CBP disagrees with the commenter's assertion that the importer should not be responsible for certifying that the goods are eligible for preference or for the truthfulness of the claim and the information in the certification. It is the responsibility of the U.S. importer of the goods for which preference is sought to file the appropriate entry with CBP and make the claim for preferential tariff treatment for the goods. In making this claim, the importer is responsible for exercising reasonable care to ensure that the goods are entitled to such treatment. CBP acknowledges that some producers may be reluctant to open their books to importers, but notes that an importer who has not acted fraudulently but nevertheless made an incorrect claim, is not subject to penalties if the importer promptly and voluntarily makes a corrected declaration and pays any duties owing. (19 CFR 10.585, 10.621, 10.623)

Comment: The commenter objected to the requirement in § 10.587(a) that an importer claiming CAFTA–DR preference must maintain, for a minimum of five years after the date of importation, *all* records and documents that the importer has demonstrating that the goods qualify for such treatment. According to the commenter, it is not reasonable or necessary to require that the importer maintain non-entry type documents for a five year period. The commenter recommended that the five-year record retention requirement be limited only to the certification.

CBP's Response: As previously indicated, § 10.587(a) implements Article 4.19.2 of the CAFTA–DR which requires each Party to the Agreement to provide that an importer claiming preference under the Agreement for a good imported into its territory "shall maintain, for a minimum of five years from the date of importation of the good, all records and documents necessary to demonstrate the good qualified for the preferential tariff treatment." CBP believes that adopting the commenter's recommended change to § 10.587(a) would be contrary to the specific language of the CAFTA–DR set forth above.

Comment: The commenter requested that CBP clarify in the preamble to this final rule document that the word "transshipment", as used in §§ 10.588(b), 10.604, 10.609, and 10.610, is not intended to refer to "illegal transshipment", which is the meaning sometimes associated with term "transshipment" when used in the context of textile and apparel imports.

CBP's Response: In the context in which the word "transshipment" is used

in the above-referenced provisions, CBP doubts that it would be misinterpreted as suggested by the commenter. However, to avoid any potential confusion in this regard, CBP confirms that the word "transshipment", as used in the above-referenced provisions, is not intended to mean "illegal transshipment".

Comment: The commenter recommended that, to avoid confusion, the heading "Rules of Origin" immediately preceding § 10.593 be replaced with "Preference Rules of Origin" or some other similar wording.

CBP's Response: CBP does not believe that the heading "Rules of Origin" requires any clarification in this context. The provisions set forth in subpart J, part 10 of the CBP regulations exclusively concern and implement the preferential tariff treatment provisions of the CAFTA–DR. Additionally, CBP notes that the same heading appears in the CBP regulations implementing a number of other free trade agreements ("FTAs"), including, for example, the United States-Chile Free Trade Agreement (*see* 19 CFR subpart H, part 10) and the United States-Singapore Free Trade Agreement (*see* 19 CFR subpart I, part 10).

Comment: The commenter referenced § 10.617, which sets forth a special rule for verifications conducted in an exporting CAFTA–DR Party relating to textile and apparel goods imported into the United States. The commenter asked that CBP amend this section to require that the U.S. importer be notified when a request for a verification is made by CBP to the government of an exporting Party. According to the commenter, advising U.S. importers that such a request has been made will help to ensure that the foreign producer or exporter takes the inquiry seriously and provides the appropriate information without undue delay and confusion.

CBP's Response: Section 10.617 implements Article 3.24 of the CAFTA–DR which sets forth detailed procedures for conducting verifications in an exporting CAFTA–DR Party at the request of the importing Party and does not require the notification requested by the commenter. However, we do note that § 10.585 of the CBP regulations provides an importer the opportunity to arrange to have an exporter or producer provide to CBP any information relied upon in making a certification.

Changes to the Regulations

The final rulemaking text set forth below incorporates the following changes which CBP believes are necessary as result of further internal review of the interim regulatory text:

1. In § 10.31, relating to temporary importations under bond, the last sentence in paragraph (f) has been revised to add Costa Rica to the list of countries. The CAFTA–DR entered into force with respect to Costa Rica on January 1, 2009 (*see* Presidential Proclamation 8331 dated December 23, 2008, published in the **Federal Register** on December 30, 2008 (73 FR 79585));

2. In § 10.582, the portion of the definition of "Customs duty" set forth in paragraph (d)(2) has been revised to correct an error by changing the first letter of the word "Domestic" from uppercase to lowercase;

3. In § 10.583, concerning the filing of a CAFTA–DR preference claim upon importation, the first sentence in paragraph (c) has been revised to replace the cross-reference to "paragraph (a)" with the correct cross-reference, "paragraph (b)";

4. In § 10.592, relating to the processing procedures for post-importation duty refund claims:

a. Paragraph (d)(1) has been revised to add a reference to "§ 10.588" immediately preceding the second reference to "§ 10.591" to clarify that the failure of an importer to satisfy the requirements of § 10.588 may be the basis for a denial of a post-importation duty refund claim; and

b. Paragraph (d)(1) has been further revised to remove the words "initiation of" in the phrase "following initiation of an origin verification" to more accurately reflect when determinations are made by CBP based upon the results of origin verifications;

5. In § 10.593, which sets forth definitions relating to the rules of origin:

a. The portion of the definition of "Class of motor vehicles" set forth in paragraph (b)(3) has been revised to remove the unnecessary word "provided" immediately preceding the words "for the transport of"; and

b. The definition of "reasonably allocate" in paragraph (p) has been revised to capitalize the first letter in each of the words "generally accepted accounting principles", consistent with the manner in which those words appear in other provisions in 19 CFR subpart J, part 10 (*see, for example,* §§ 10.593(e) and 10.596(d));

6. In § 10.595, concerning the regional value content test, paragraph (d)(2) has been revised to capitalize the first letter in each of the words "generally accepted accounting principles", consistent with the manner in which those words are used elsewhere in 19 CFR subpart J, part 10;

7. In § 10.598, which sets forth the *de minimis* rules and exceptions:

a. Paragraph (c)(1)(ii) has been revised to update four of the HTSUS subheadings referenced in that paragraph: 5402.10.30, 5402.10.60, 5402.41.10, and 5402.41.90. These subheadings, which encompass nylon filament yarns, were replaced by subheadings 5402.11.30, 5402.11.60, 5402.45.10, and 5402.45.90, respectively (*see* Presidential Proclamation 8097 dated December 27, 2006, published in the **Federal Register** on January 4, 2007 (72 FR 453)); and

b. Paragraph (c)(3) has been revised to replace the first reference to the words "group of fibers" with "fiber" and to replace the words "yarn, fabric, or group of fibers" at the end of the paragraph with the word "good". These changes more closely conform this provision to the wording in section 203(f)(3)(C) of the Act;

8. Section 10.606, concerning the filing of tariff preference level (TPL) claims for certain non-originating apparel goods, has been revised to reflect the addition of certain apparel articles that may be entitled to preferential tariff treatment under applicable TPLs (*see* Presidential Proclamation 8213 dated December 20, 2007, published in the **Federal Register** on December 27, 2007 (72 FR 73555), as modified by Presidential Proclamation 8272 dated June 30, 2008, published in the **Federal Register** on July 3, 2008 (73 FR 38297); and Presidential Proclamation 8331 of December 23, 2008, published in the **Federal Register** on December 30, 2008 (73 FR 79585));

9. Section 10.607, which sets forth the apparel goods eligible for TPL claims, has been revised consistent with the updates described above in regard to § 10.606;

10. Section 10.608, concerning the submission of a certificate of eligibility in support of a TPL claim, has been revised to clarify that the certificate is required only in connection with TPL claims for certain qualifying apparel goods from Nicaragua;

11. In § 10.616, concerning verifications by CBP of CAFTA–DR preference claims:

a. The introductory text of paragraph (a) has been revised to add a reference to "§ 10.591" immediately after the reference to "§ 10.583(b)" to clarify that a post-importation duty refund claim may also be subject to a verification by the port director; and

b. Paragraph (a)(4) has been revised to replace the word "Parties" with the words " United States and the exporting Party", which more closely conform to the wording in Article 4.20.1(e) of the CAFTA–DR;

12. In § 10.617, which sets forth a special rule for verifications in an exporting Party relating to U.S. imports of textile and apparel goods, paragraph (b)(3)(ii) has been revised to correct an error by replacing the words "to any to any" with the words "to any";

13. In § 10.625, relating to the retroactive application of the CAFTA–DR for textile and apparel goods:

a. The paragraph (b) introductory text has been revised to replace the words "the date of the entry into force of the Agreement with respect to the last CAFTA–DR country" with "January 1, 2009" to reflect the date on which the CAFTA–DR entered into force with respect to Costa Rica. Of the six foreign signatories to the CAFTA–DR, Costa Rica was the last country for which the Agreement entered into force;

b. The paragraph (c) introductory text has been revised to replace the words "within 90 days after the date of the entry into force of the Agreement for the last CAFTA–DR country" with "April 1, 2009", consistent with the change discussed above in regard to paragraph (b); and

c. Paragraph (d) has been revised to remove the definition of "last CAFTA–DR country" in paragraph (d)(2) since those words no longer appear in § 10.625 as a result of the changes to paragraphs (b) and (c). The definition of "textile or apparel good" in paragraph (d)(3) also has been removed as these words are already defined in § 10.582, which sets forth general definitions for purposes of the CAFTA–DR;

14. In § 24.23, which concerns merchandise processing fees and exemptions from the application of those fees, paragraph (c)(9) has been revised to replace "January 1, 2005" with the correct date on which the CAFTA–DR first entered into effect, "March 1, 2006" (*see* Presidential Proclamation 7987 dated February 28, 2006, published in the **Federal Register** on March 2, 2006 (71 FR 10827)); and

15. In § 163.1, relating to recordkeeping requirements, paragraph (a)(2)(x) has been revised to correct an error by replacing "an" with "a".

Conclusion

Accordingly, based on the analysis of the comment received and the additional considerations discussed above, CBP believes that the interim regulations published as CBP Dec. 08–22 should be adopted as a final rule with certain changes as discussed above and as set forth below.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

CBP Dec. 08–22 was issued as an interim rule rather than a notice of proposed rulemaking because CBP had determined that the interim regulations involve a foreign affairs function of the United States pursuant to section 553(a)(1) of the Administrative Procedure Act. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information in this final rule have previously been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0125.

The collections of information in these regulations are in §§ 10.583 and 10.584. This information is required in connection with claims for preferential tariff treatment under the CAFTA–DR and the Act and will be used by CBP to determine eligibility for tariff preference under the CAFTA–DR and the Act. The likely respondents are business organizations including importers, exporters, and manufacturers.

The estimated average annual burden associated with the collection of information in this final rule is 0.2 hours per respondent or record keeper. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 24

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

■ Accordingly, the interim rule amending parts 10, 24, 162, 163, and 178 of the CBP regulations (19 CFR parts 10, 24, 162, 163, and 178), which was published at 73 FR 33673 on June 13, 2008, is adopted as a final rule with certain changes as discussed above and as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for Part 10 and the specific authority for subpart J continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.581 through 10.625 also issued under 19 U.S.C. 1202 (General Note 29, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 109–53, 119 Stat. 462 (19 U.S.C. 4001 note).

§ 10.31 [Amended]

■ 2. In § 10.31, paragraph (f) is amended by removing the words "or the Dominican Republic" in the last sentence and adding, in their place, the words "the Dominican Republic, or Costa Rica".

§ 10.582 [Amended]

■ 3. In § 10.582, paragraph (d)(2) is amended by removing the word "Domestic" and adding, in its place, the word "domestic".

§ 10.583 [Amended]

■ 4. In § 10.583, paragraph (c) is amended by removing the reference to "paragraph (a)" in the first sentence and adding, in its place, a reference to "paragraph (b)".

§ 10.592 [Amended]

■ 5. In § 10.592: paragraph (d)(1) is amended by removing the second reference to "§ 10.591" in the paragraph and adding, in its place, a reference to "§§ 10.588 and 10.591", and by removing the words "initiation of".

§ 10.593 [Amended]

■ 6. In § 10.593:
■ a. Paragraph (b)(3) is amended by removing the word "provided" immediately preceding the words "for the transport of"; and
■ b. Paragraph (p) is amended by removing the words "generally accepted accounting principles" and adding, in their place, the words "Generally Accepted Accounting Principles".

§ 10.595 [Amended]

■ 7. In § 10.595, paragraph (d)(2) is amended by removing the words "generally accepted accounting principles" and adding, in their place, the words "Generally Accepted Accounting Principles".

■ 8. Section 10.598 is amended by revising paragraphs (c)(1)(ii) and (c)(3) to read as follows:

§ 10.598 De minimis.

* * * * *

(c) * * *

(1) * * *

(ii) The yarns are nylon filament yarns (other than elastomeric yarns) that are provided for in subheading 5402.11.30, 5402.11.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.45.10, 5402.45.90, 5402.51.00, or 5402.61.00, HTSUS, and that are products of Canada, Mexico, or Israel.

* * * * *

(3) *Yarn, fabric, or fiber.* For purposes of paragraph (c) of this section, in the case of a textile or apparel good that is a yarn, fabric, or fiber, the term "component of the good that determines the tariff classification of the good" means all of the fibers in the good.

■ 9. Section 10.606 is revised to read as follows:

§ 10.606 Filing of claim for tariff preference level.

Apparel goods of a Party described in § 10.607 of this subpart that do not qualify as originating goods under § 10.594 of this subpart may nevertheless be entitled to preferential tariff treatment under the CAFTA–DR under an applicable tariff preference level (TPL). To make a TPL claim, the importer must include on the entry summary, or equivalent documentation, the applicable subheading in Chapter 98 or 99 of the HTSUS immediately above the applicable subheading in Chapter 61 or 62 of the HTSUS under which each non-originating apparel good is classified. The applicable Chapter 98 and 99 subheadings are:

(a) Subheading 9822.05.11 or 9822.05.13 for goods described in § 10.607(a);

(b) Subheading 9915.61.01 for goods described in § 10.607(b) and (c);

(c) Subheading 9915.62.05 for goods described in § 10.607(d);

(d) Subheading 9915.62.15 for goods described in § 10.607(e); and

(e) Subheading 9915.61.03 or 9915.61.04 for goods described in § 10.607(f);

■ 10. Section 10.607 is revised to read as follows:

§ 10.607 Goods eligible for tariff preference level claims.

The following goods are eligible for a TPL claim filed under § 10.606 of this subpart:

(a) *Cumulation for certain woven apparel goods of a Party.* In accordance with General Note 29(d)(vii), HTSUS, for purposes of determining whether a good of Chapter 62, HTSUS, is an originating good, materials used in the production of the good produced in the territory of Mexico that would have been considered originating if produced in the territory of a Party, will be considered as having been produced in the territory of a Party. The applicable product-specific and chapter rules for Chapter 62, HTSUS, set forth in General Note 29, HTSUS, must be satisfied. The preferential tariff treatment is limited to the quantities specified in U.S. Note 21(b), Subchapter XXII, Chapter 98, HTSUS, except that the following goods made from wool fabric are not subject to these limits: men's and boys' and women's and girls' suits, trousers, suit-type jackets and blazers and vests and women's and girls' skirts, provided that such goods are not made of carded wool fabric or made from wool yarn having an average fiber diameter of not over 18.5 microns. Subheading 9822.05.11, HTSUS, applies to the goods described above that are subject to quantitative limits while subheading 9822.05.13, HTSUS, applies to the goods described above that are not subject to such limits;

(b) *Cotton or man-made fiber apparel goods of Nicaragua.* Cotton or man-made fiber apparel goods described in U.S. Note 15(b), Subchapter XV, Chapter 99, HTSUS, that are both cut (or knit-to-shape) and sewn or otherwise assembled in the territory of Nicaragua, and that meet the applicable conditions for preferential tariff treatment under the CAFTA–DR, other than the condition that they are originating goods. The preferential tariff treatment is limited to the quantities specified in U.S. Note 15(c), Subchapter XV, Chapter 99, HTSUS;

(c) *Men's wool sport coats of Nicaragua.* Men's sport coats described in U.S. Note 15(b), Subchapter XV, Chapter 99, HTSUS, provided that the component that determines the tariff classification of the good is of carded wool fabric of subheading 5111.11.70, 5111.19.60, or 5111.90.90, HTSUS, the goods are both cut (or knit-to-shape) and sewn or otherwise assembled in the territory of Nicaragua, and the goods meet the applicable conditions for preferential tariff treatment under the CAFTA–DR, other than the condition that they are originating goods. The preferential tariff treatment is limited to the quantities specified in U.S. Note 15(c), Subchapter XV, Chapter 99, HTSUS;

(d) *Apparel goods of Costa Rica, not knitted or crocheted.* Apparel goods described in U.S. Note 16(b), Subchapter XV, Chapter 99, HTSUS, not knitted or crocheted, containing 36 percent or more by weight of wool or subject to wool restraints, provided that the goods are both cut and sewn or otherwise assembled in the territory of Costa Rica, meet the applicable conditions for preferential tariff treatment under the CAFTA–DR, other than the condition that they are originating goods, and comply with the requirements set forth in chapter rules 1, 3, 4, and 5 for Chapter 62 of General Note 29, HTSUS. The preferential tariff treatment is limited to the quantities specified in U.S. Note 16(a), Subchapter XV, Chapter 99, HTSUS.;

(e) *Apparel goods of Costa Rica made from wool fabric.* Apparel goods described in U.S. Note 16(d), Subchapter XV, Chapter 99, HTSUS, made from fabric of wool (except fabric of carded wool or fabric made from wool yarn having an average fiber diameter of less than or equal to 18.5 microns), provided that the goods are both cut and sewn or otherwise assembled in the territory of Costa Rica, and meet the applicable conditions for preferential tariff treatment under the CAFTA–DR, other than the condition that they are originating goods. The preferential tariff treatment is limited to the quantities specified in U.S. Note 16(c), Subchapter XV, Chapter 99, HTSUS; and

(f) *Mastectomy swimsuits of Costa Rica.* Women's knitted or crocheted swimwear, classified in subheading 6112.41.00 (of synthetic fibers) or 6112.49.00, HTSUS (of other textile fibers), specially designed to accommodate post-mastectomy breast prostheses, containing two full size interior pockets with side openings, two preformed cups, a supporting elastic band below the breast and vertical center stitching to separate the two pockets, provided that the goods are both cut (or knit-to-shape) and sewn or otherwise assembled in the territory of Costa Rica, and meet the applicable conditions for preferential tariff treatment under the CAFTA–DR, other than the condition that they are originating goods. Subheading 9915.61.03, HTSUS, applies to the swimsuits described above classified in subheading 6112.41.00, HTSUS, while subheading 9915.61.04, HTSUS, applies to the swimsuits described above classified in subheading 6112.49.00, HTSUS. The preferential tariff treatment is limited to the quantities specified in U.S. Note 17(a), Subchapter XV, Chapter 99, HTSUS.

■ 11. Section 10.608 is amended by revising the heading and the first sentence to read as follows:

§ 10.608 Submission of certificate of eligibility for certain apparel goods of Nicaragua.

An importer who claims preferential tariff treatment on a non-originating apparel good of Nicaragua specified in paragraphs (b) and (c) of § 10.607 of this subpart must submit a certificate of eligibility issued by an authorized official of the Government of Nicaragua, demonstrating that the good is eligible for entry under the applicable TPL. * * *

§ 10.616 [Amended]

■ 12. In § 10.616:

■ a. The introductory text of paragraph (a) is amended by adding a reference to "or § 10.591" immediately following the reference to "§ 10.583(b)"; and

■ b. Paragraph (a)(4) is amended by removing the word "Parties" and adding, in its place, the words "United States and the exporting Party".

§ 10.617 [Amended]

■ 13. In § 10.617, paragraph (b)(3)(ii) is amended by removing the words "to any to any" and adding, in their place, the words "to any".

■ 14. Section 10.625 is amended by revising the paragraph (b) introductory text, the paragraph (c) introductory text, and paragraph (d) to read as follows:

§ 10.625 Refunds of excess customs duties.

* * * * *

(b) *General.* Notwithstanding 19 U.S.C. 1514 or any other provision of law, and subject to paragraph (c) of this section, a textile or apparel good of an eligible CAFTA–DR country that was entered or withdrawn from warehouse for consumption on or after January 1, 2004, and before January 1, 2009, will be liquidated or reliquidated at the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement, and CBP will refund any excess customs duties paid with respect to such entry, with interest accrued from the date of entry, provided:

* * * * *

(c) *Request for liquidation or reliquidation.* Liquidation or reliquidation may be made under paragraph (b) of this section with respect to an entry of a textile or apparel good of an eligible CAFTA–DR country only if a request for liquidation or reliquidation is filed with the CBP port where the entry was originally filed by April 1, 2009, and the request contains sufficient information to enable CBP:

* * * * *

(d) *Eligible CAFTA–DR country defined.* For purposes of this section, the term "eligible CAFTA–DR country" means a country that the United States Trade Representative has determined, by notice published in the **Federal Register**, to be an eligible country for purposes of section 205 of the Act.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 15. The general authority citation for Part 24 and the specific authority for § 24.23 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

Section 24.23 also issued under 19 U.S.C. 3332;

* * * * *

§ 24.23 [Amended]

■ 16. In § 24.23, paragraph (c)(9) is amended by removing the date "January 1, 2005" and adding, in its place, the date "March 1, 2006".

PART 163—RECORDKEEPING

■ 17. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

§ 163.1 [Amended]

■ 18. In § 163.1, paragraph (a)(2)(x) is amended by removing the word "an" and adding, in its place, the word "a".

Alan Bersin,

Commissioner, U.S. Customs and Border Protection.

Approved: August 11, 2010.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2010–20246 Filed 8–16–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, 147, and 165

[USCG–2010–0732]

Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, and Drawbridge Operation Regulations

AGENCY: Coast Guard, DHS.

ACTION: Notice of expired temporary rules issued.

SUMMARY: This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between February 2006 and August 2009, that expired before they could be published in the **Federal Register**. This notice lists temporary safety zones, security zones, special local regulations, and drawbridge operation regulations, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules between February 10, 2006 and August 9, 2009 that became effective and were terminated before they could be published in the **Federal Register**.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at 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.

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Yeoman First Class Denise Johnson, Office of Regulations and Administrative Law,

telephone (202) 372–3862. For questions on viewing, or on submitting material to the docket, contact Ms. Angie Ames, Docket Operations, telephone 202–366–5115.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities and may also describe a zone around a vessel in motion. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. Timely publication of these rules in the **Federal Register** is often precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials' on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register.** Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The temporary rules listed in this notice have been exempted from review under Executive Order 12666, Regulatory Planning and Review, because of their emergency nature, or limited scope and temporary effectiveness.

The following unpublished rules were placed in effect temporarily during the period between February 2006 and August 2009 unless otherwise indicated.

Dated: August 11, 2010.

S.G. Venckus

Chief, Office of Regulations and Administrative Law.

1ST QUARTER 2009 LISTING

Docket No.	Location	Type	Effective date
COTP Charleston 07–058	Beaufort, SC	Safety Zones (Parts 147 and 165)	4/19/2007
COTP Charleston 07–062	Charleston, SC	Safety Zones (Parts 147 and 165)	3/26/2007
COTP Charleston 07–095	Charleston, SC	Safety Zones (Parts 147 and 165)	5/19/2007
COTP Charleston 07–140	Hilton Head Island, SC	Safety Zones (Parts 147 and 165)	6/5/2007
COTP Charleston 07–160	Edisto Island, SC	Safety Zones (Parts 147 and 165)	7/1/2007
COTP Charleston 07–161	Hilton Head Island, SC	Safety Zones (Parts 147 and 165)	7/4/2007
COTP Charleston 07–169	Beaufort, SC	Safety Zones (Parts 147 and 165)	7/13/2007
COTP Charleston 07–242	Charleston, SC	Safety Zones (Parts 147 and 165)	11/11/2007
COTP Charleston 07–267	Charleston, SC	Safety Zones (Parts 147 and 165)	11/10/2007
COTP Guam 07–003	Cocos Lagoon, GU	Safety Zones (Parts 147 and 165)	5/27/2007
COTP Guam 07–004	Garapan Fishing Base, Saipan	Safety Zones (Parts 147 and 165)	7/4/2007
COTP Honolulu 07–002	Honolulu, HI	Security zones (Part 165)	6/23/2007
COTP Honolulu 07–003	Honolulu, HI	Safety Zones (Parts 147 and 165)	9/13/2007
COTP Jacksonville 07–164	Port Canaveral, FL	Safety Zones (Parts 147 and 165)	9/27/2007
COTP Jacksonville 07–205	New Smyrna Beach, FL	Safety Zones (Parts 147 and 165)	9/22/2007
COTP Jacksonville 07–235	Port Canaveral, FL	Safety Zones (Parts 147 and 165)	10/9/2007
COTP Jacksonville 07–249	Port Canaveral, FL	Safety Zones (Parts 147 and 165)	10/23/2007
COTP Lower Mississippi River—07–012	Big Island, TN	Safety Zones (Parts 147 and 165)	8/29/2007
COTP Lower Mississippi River—07–013	Klondike Revetment, TN	Safety Zones (Parts 147 and 165)	9/11/2007
COTP Lower Mississippi River—07–014	Mayersville Revetment, TN	Safety Zones (Parts 147 and 165)	9/21/2007
COTP Lower Mississippi River—07–015	Stack Island, TN	Safety Zones (Parts 147 and 165)	9/24/2007
COTP Lower Mississippi River—07–016	Togo Island, TN	Safety Zones (Parts 147 and 165)	10/1/2007
COTP Lower Mississippi River—07–018	Palmento Bend, TN	Safety Zones (Parts 147 and 165)	10/6/2007
COTP Lower Mississippi River—07–019	Vicksburg Bend, TN	Safety Zones (Parts 147 and 165)	10/4/2007
COTP Lower Mississippi River—08–014	Lower Mississippi River, TN	Safety Zones (Parts 147 and 165)	11/11/2008
COTP Lower Mississippi River—08–018	Greenville, MS	Safety Zones (Parts 147 and 165)	11/25/2008
COTP Morgan City—07–012	New Iberia, LO	Safety Zones (Parts 147 and 165)	10/2/2007
COTP Morgan City—07–014	Gulf Intracoastal Waterway	Safety Zones (Parts 147 and 165)	10/11/2007
COTP Morgan City—07–015	New Iberia, LO	Safety Zones (Parts 147 and 165)	10/11/2007
COTP San Francisco Bay 06–013	Carquinez Strait, CA	Safety Zones (Parts 147 and 165)	4/24/2006
COTP San Francisco Bay 06–019	Carquinez Strait, CA	Safety Zones (Parts 147 and 165)	5/11/2006
COTP San Francisco Bay 06–024	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/4/2006
COTP San Francisco Bay 06–025	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/4/2006
COTP San Francisco Bay 06–026	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/4/2006
COTP San Francisco Bay 06–027	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/4/2006
COTP San Francisco Bay 06–028	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/4/2006
COTP San Francisco Bay 06–029	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/21/2006
COTP San Francisco Bay 06–030	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/27/2006
COTP San Francisco Bay 06–032	San Francisco, CA	Safety Zones (Parts 147 and 165)	8/9/2006
COTP San Francisco Bay 06–034	Monterey, CA	Security zones (Part 165)	7/30/2006

1ST QUARTER 2009 LISTING—Continued

Docket No.	Location	Type	Effective date
COTP San Francisco Bay 06–040	Carquinez Strait, CA	Safety Zones (Parts 147 and 165)	10/11/2006
COTP San Francisco Bay 07–005	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	4/4/2007
COTP San Francisco Bay 07–010	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	5/25/2007
COTP San Francisco Bay 07–011	San Francisco Bay, CA	Security zones (Part 165)	4/21/2007
COTP San Francisco Bay 07–013	Stockton, CA	Safety Zones (Parts 147 and 165)	4/27/2007
COTP San Francisco Bay 07–014	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	6/6/2007
COTP San Francisco Bay 07–017	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	5/21/2007
COTP San Francisco Bay 07–029	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/2/2007
COTP San Francisco Bay 07–030	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/7/2007
COTP San Francisco Bay 07–033	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/13/2007
COTP San Francisco Bay 07–034	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/28/2007
COTP San Francisco Bay 07–037	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	7/27/2007
COTP San Francisco Bay 07–041	San Joaquin, CA	Safety Zones (Parts 147 and 165)	8/26/2007
COTP San Francisco Bay 07–043	South Lake Tahoe, CA	Safety Zones (Parts 147 and 165)	9/1/2007
COTP San Francisco Bay 07–047	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	10/4/2007
COTP San Francisco Bay 07–054	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	12/8/2007
COTP San Juan 06–062	Port of Ponce, Puerto Rico	Security zones (Part 165)	4/1/2006
COTP San Juan 06–071	Port of Ponce, Puerto Rico	Security zones (Part 165)	4/15/2006
COTP San Juan 06–086	Tallaboa, PR	Safety Zones (Parts 147 and 165)	4/27/2006
COTP San Juan 06–155	San Juan, PR	Safety Zones (Parts 147 and 165)	7/23/2006
COTP San Juan 06–167	San Juan, PR	Safety Zones (Parts 147 and 165)	8/2/2006
COTP Savannah—06–026	Savannah, GA	Security zones (Part 165)	2/10/2006
COTP Savannah—06–049	Savannah, GA	Security zones (Part 165)	3/15/2006
COTP Savannah—06–061	Savannah, GA	Security zones (Part 165)	3/29/2006
COTP Savannah—06–083	Savannah, GA	Security zones (Part 165)	4/28/2006
COTP Savannah—06–144	Savannah, GA	Security zones (Part 165)	6/24/2006
COTP Savannah—06–145	Savannah, GA	Security zones (Part 165)	6/25/2006
COTP Savannah—06–159	Savannah, GA	Safety Zones (Parts 147 and 165)	7/17/2006
COTP Sector Upper Mississippi River—06–024.	Missouri River, MO	Safety Zones (Parts 147 and 165)	9/15/2006
COTP Sector Upper Mississippi River—06–024.	Missouri River, MO	Safety Zones (Parts 147 and 165)	9/16/2006
COTP Sector Upper Mississippi River—06–024.	Upper Mississippi River, MO	Safety Zones (Parts 147 and 165)	11/20/2006
COTP Sector Upper Mississippi River—06–025.	Upper Mississippi River, MO	Safety Zones (Parts 147 and 165)	12/1/2006
COTP Sector Upper Mississippi River—06–026.	Upper Mississippi River, MO	Safety Zones (Parts 147 and 165)	12/7/2006
COTP Sector Upper Mississippi River—07–022.	Kaskaskia River, MO	Safety Zones (Parts 147 and 165)	8/11/2007
COTP Sector Upper Mississippi River—07–023.	Upper Mississippi River, MO	Security zones (Part 165)	8/8/2007
COTP Sector Upper Mississippi River—07–024.	Upper Mississippi River, MO	Safety Zones (Parts 147 and 165)	8/4/2007
COTP Sector Upper Mississippi River—07–025.	Missouri River, MO	Safety Zones (Parts 147 and 165)	8/24/2007
COTP Sector Upper Mississippi River—07–034.	Missouri River, MO	Safety Zones (Parts 147 and 165)	9/2/2007
COTP Sector Upper Mississippi River—08–005.	St. Croix River, MO	Safety Zones (Parts 147 and 165)	7/5/2008
COTP Sector Upper Mississippi River—08–017.	Upper Mississippi River, MO	Safety Zones (Parts 147 and 165)	6/14/2008
COTP Sector Upper Mississippi River—08–023.	Missouri River, MO	Safety Zones (Parts 147 and 165)	9/11/2008
COTP Sector Upper Mississippi River—08–026.	Upper Mississippi River, MO	Safety Zones (Parts 147 and 165)	7/4/2008
COTP Sector Upper Mississippi River—08–029.	Missouri River, MO	Safety Zones (Parts 147 and 165)	6/28/2008
COTP St Louis—06–023	Kansas City, MO	Safety Zones (Parts 147 and 165)	9/14/2006
COTP St Louis—06–095	Evansville, IL	Safety Zones (Parts 147 and 165)	8/12/2006
COTP Western Alaska—08–001	Kodiak Island, AK	Safety Zones (Parts 147 and 165)	7/18/2008
USCG–2007–0089	West Palm Beach, FL	Safety Zones (Parts 147 and 165)	12/31/2007
USCG–2007–0125	Miami, FL	Safety Zones (Parts 147 and 165)	1/28/2008
USCG–2007–0136	Hillsborough River, FL	Safety Zones (Parts 147 and 165)	12/5/2007
USCG–2007–0141	Miami, FL	Safety Zones (Parts 147 and 165)	12/31/2007
USCG–2007–0175	Miami, FL	Safety Zones (Parts 147 and 165)	12/20/2007
USCG–2007–0178	Fort Pierce, FL	Safety Zones (Parts 147 and 165)	1/23/2008
USCG–2007–0181	Savannah, GA	Security zones (Part 165)	12/21/2007
USCG–2007–0188	New London, CT	Safety Zones (Parts 147 and 165)	12/31/2007
USCG–2007–0192	Savannah, GA	Security zones (Part 165)	12/24/2007
USCG–2008–0011	Gulf of Mexico, FL	Safety Zones (Parts 147 and 165)	2/7/2008
USCG–2008–0012	Tampa, FL	Safety Zones (Parts 147 and 165)	2/16/2008

1ST QUARTER 2009 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2008–0020	Tampa, FL	Safety Zones (Parts 147 and 165)	1/20/2008
USCG–2008–0021	Tampa, FL	Safety Zones (Parts 147 and 165)	1/20/2008
USCG–2008–0030	Savannah, GA	Safety Zones (Parts 147 and 165)	1/16/2008
USCG–2008–0039	Johns Pass, FL	Safety Zones (Parts 147 and 165)	1/26/2008
USCG–2008–0040	Port Canaveral, FL	Safety Zones (Parts 147 and 165)	2/7/2008
USCG–2008–0042	Baltimore, MD	Security zones (Part 165)	1/29/2008
USCG–2008–0043	Savannah, GA	Security zones (Part 165)	1/24/2008
USCG–2008–0050	Atchafalaya Bay, LO	Safety Zones (Parts 147 and 165)	12/18/2007
USCG–2008–0051	Peninsula, TX	Safety Zones (Parts 147 and 165)	2/18/2008
USCG–2008–0055	Anne Arundel County, MD	Safety Zones (Parts 147 and 165)	1/28/2008
USCG–2008–0059	Old Saybrook, CT	Safety Zones (Parts 147 and 165)	2/29/2008
USCG–2008–0072	Tampa, FL	Safety Zones (Parts 147 and 165)	2/9/2008
USCG–2008–0128	Anne Arundel County, MD	Safety Zones (Parts 147 and 165)	7/7/2008
USCG–2008–0129	Lower Chesapeake Bay	Safety Zones (Parts 147 and 165)	9/6/2008
USCG–2008–0140	Newport, OR	Safety Zones (Parts 147 and 165)	7/16/2008
USCG–2008–0141	Seattle, WA	Security zones (Part 165)	7/30/2008
USCG–2008–0145	Anacortes, WA	Safety Zones (Parts 147 and 165)	5/30/2008
USCG–2008–0160	Ocean City, MD	Safety Zones (Parts 147 and 165)	6/9/2008
USCG–2008–0167	Sunny Isles, FL	Safety Zones (Parts 147 and 165)	6/20/2008
USCG–2008–0253	Puget Sound, WA	Safety Zones (Parts 147 and 165)	6/30/2008
USCG–2008–0254	Commincement Bay, WA	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0255	Quartermaster Harbor, WA	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0274	Tampa, FL	Safety Zones (Parts 147 and 165)	4/4/2008
USCG–2008–0292	Charleston, SC	Safety Zones (Parts 147 and 165)	5/3/2008
USCG–2008–0322	San Francisco, CA	Safety Zones (Parts 147 and 165)	5/14/2008
USCG–2008–0344	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	4/25/2008
USCG–2008–0345	Fort Pierce, FL	Safety Zones (Parts 147 and 165)	5/7/2008
USCG–2008–0355	Tampa, FL	Safety Zones (Parts 147 and 165)	5/16/2008
USCG–2008–0365	Gulf of Mexico, FL	Safety Zones (Parts 147 and 165)	5/23/2008
USCG–2008–0367	Stuart, FL	Safety Zones (Parts 147 and 165)	5/24/2008
USCG–2008–0372	Vancouver, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0385	Miami, FL	Security zones (Part 165)	6/19/2008
USCG–2008–0391	Harbor, DC	Safety Zones (Parts 147 and 165)	7/16/2008
USCG–2008–0397	Savannah, GA	Security zones (Part 165)	5/9/2008
USCG–2008–0404	Murrells Inlet, SC	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0405	Moncks, SC	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0407	Fort Pierce, FL	Safety Zones (Parts 147 and 165)	5/19/2008
USCG–2008–0408	Fort Pierce, FL	Safety Zones (Parts 147 and 165)	5/19/2008
USCG–2008–0419	Fort Lauderdale, FL	Safety Zones (Parts 147 and 165)	5/29/2008
USCG–2008–0420	Miami, FL	Safety Zones (Parts 147 and 165)	5/26/2008
USCG–2008–0422	Central Massachusetts	Safety Zones (Parts 147 and 165)	8/16/2008
USCG–2008–0432	Miami, FL	Safety Zones (Parts 147 and 165)	6/19/2008
USCG–2008–0437	Savannah, GA	Security zones (Part 165)	5/16/2008
USCG–2008–0438	Savannah, GA	Security zones (Part 165)	5/19/2008
USCG–2008–0439	Jacksonville, NC	Safety Zones (Parts 147 and 165)	8/5/2008
USCG–2008–0443	San Diego, CA	Safety Zones (Parts 147 and 165)	7/18/2008
USCG–2008–0444	San Diego, CA	Safety Zones (Parts 147 and 165)	7/16/2008
USCG–2008–0447	Bullhead City, AZ	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0452	Savannah, GA	Security zones (Part 165)	5/22/2008
USCG–2008–0455	San Francisco, CA	Safety Zones (Parts 147 and 165)	6/7/2008
USCG–2008–0457	Wilmington, NC	Safety Zones (Parts 147 and 165)	5/15/2008
USCG–2008–0459	Southport, CT	Safety Zones (Parts 147 and 165)	5/31/2008
USCG–2008–0463	Hampton, VA	Safety Zones (Parts 147 and 165)	8/24/2008
USCG–2008–0467	Longview, WA	Safety Zones (Parts 147 and 165)	8/1/2008
USCG–2008–0467	Longview, WA	Safety Zones (Parts 147 and 165)	8/31/2008
USCG–2008–0479	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	6/28/2008
USCG–2008–0482	Grand Marais, MI	Safety Zones (Parts 147 and 165)	6/21/2008
USCG–2008–0493	New England, ME	Safety Zones (Parts 147 and 165)	7/13/2008
USCG–2008–0495	Stockton, CA	Safety Zones (Parts 147 and 165)	7/2/2008
USCG–2008–0498	South Lake Tahoe, CA	Safety Zones (Parts 147 and 165)	7/2/2008
USCG–2008–0501	Boston, MA	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0503	San Francisco, CA	Safety Zones (Parts 147 and 165)	7/2/2008
USCG–2008–0506	Louisville, KY	Safety Zones (Parts 147 and 165)	6/9/2008
USCG–2008–0507	Antioch, CA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0508	San Francisco, CA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0510	Oakland, CA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0513	Sarasota, CA	Safety Zones (Parts 147 and 165)	6/11/2008
USCG–2008–0515	Homewood, CA	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0519	Cincinnati, OH	Safety Zones (Parts 147 and 165)	6/28/2008
USCG–2008–0524	Kings Beach, CA	Safety Zones (Parts 147 and 165)	7/2/2008
USCG–2008–0525	El Granada, CA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0526	Savannah, GA	Security zones (Part 165)	6/10/2008

1ST QUARTER 2009 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2008–0527	Ashland, KY	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0532	Southport, CT	Safety Zones (Parts 147 and 165)	6/21/2008
USCG–2008–0536	New London, CT	Safety Zones (Parts 147 and 165)	6/24/2008
USCG–2008–0537	Seattle, WA	Security zones (Part 165)	7/30/2008
USCG–2008–0539	Tacoma, WA	Security zones (Part 165)	7/3/2008
USCG–2008–0540	North Bend, OR	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0541	Tacoma, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0542	Portland, OR	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0543	Rainier, OR	Safety Zones (Parts 147 and 165)	7/12/2008
USCG–2008–0544	Ilwaco, WA	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0545	Kennewick, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0546	Aberdeen, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0548	Florence, OR	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0550	St Petersburg, FL	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0556	Stockton, CA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0557	Savannah, GA	Security zones (Part 165)	6/14/2008
USCG–2008–0558	Seattle, WA	Security zones (Part 165)	7/2/2008
USCG–2008–0559	Bellingham, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0560	Seattle, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0561	Seattle, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0562	Seattle, WA	Security zones (Part 165)	7/30/2008
USCG–2008–0563	Portland, OR	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0564	Savannah, GA	Security zones (Part 165)	6/16/2008
USCG–2008–0565	Knoxville, TN	Safety Zones (Parts 147 and 165)	6/20/2008
USCG–2008–0573	Richmond, CA	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0574	Morgantown, WV	Safety Zones (Parts 147 and 165)	6/29/2008
USCG–2008–0578	San Diego, CA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0582	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	6/29/2008
USCG–2008–0583	Huntington Bay, NY	Special Local Regulation (Part 100)	7/13/2008
USCG–2008–0586	Grosse Pointe Shores, MI	Safety Zones (Parts 147 and 165)	6/23/2008
USCG–2008–0587	New Baltimore, MI	Safety Zones (Parts 147 and 165)	6/26/2008
USCG–2008–0588	St Clair Shores, MI	Safety Zones (Parts 147 and 165)	6/27/2008
USCG–2008–0591	Hanford, WA	Safety Zones (Parts 147 and 165)	6/21/2008
USCG–2008–0602	Savannah, GA	Security zones (Part 165)	6/20/2008
USCG–2008–0604	Ohio River, OH	Safety Zones (Parts 147 and 165)	6/22/2008
USCG–2008–0605	Port Huron, MI	Safety Zones (Parts 147 and 165)	6/28/2008
USCG–2008–0606	Wyandotte, MI	Safety Zones (Parts 147 and 165)	6/27/2008
USCG–2008–0607	Bay City, MI	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0608	Paradise, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0609	Cedarville, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0613	Alexandria Bay, NY	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0614	Mackinac Island, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0615	Marquette, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0617	Munising, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0618	Sault Ste. Marie, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0619	St. Ignance, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0620	Baldwinsville, NY	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0621	Tonawanda, NY	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0622	Baltimore, MD	Security zones (Part 165)	6/27/2008
USCG–2008–0623	Savannah, GA	Security zones (Part 165)	6/24/2008
USCG–2008–0624	Hamlin, NY	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0625	Kendall, NY	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0626	Oswego, NY	Safety Zones (Parts 147 and 165)	7/6/2008
USCG–2008–0627	Conneaut, OH	Safety Zones (Parts 147 and 165)	7/6/2008
USCG–2008–0628	Sheffield Lake, OH	Safety Zones (Parts 147 and 165)	7/11/2008
USCG–2008–0632	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	6/29/2008
USCG–2008–0633	Nassau, NY	Drawbridge Operations Regulation (Part 117)	7/11/2008
USCG–2008–0634	Baltimore, MD	Security zones (Part 165)	6/27/2008
USCG–2008–0636	Courcheville	Security zones (Part 165)	6/27/2008
USCG–2008–0637	Buffalo, NY	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0638	Bayfield, WI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0639	Toledo, OH	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0640	Puget Sound, WA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0642	Savannah, GA	Security zones (Part 165)	6/28/2008
USCG–2008–0643	Grosse Pointe Shores, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0644	Port Austin, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0645	Put-In-Bay, OH	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0646	Alpena, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0647	Harrison Township, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0648	Ecourse, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0649	St. Clair, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0650	Trenton, MI	Safety Zones (Parts 147 and 165)	7/4/2008

1ST QUARTER 2009 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2008–0651	Catawba Island, OH	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0652	Perrysburg, OH	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0653	Grosse Isle, MI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0654	Algonac, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0655	Au Gres, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0656	Lakeside, OH	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0657	Lapointe, WI	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0657	Caseville, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0658	Astoria, OR	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0658	Grosse Pointe Farms, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0659	Harrisville, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0660	Gibraltar, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0661	Luna Pier, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0662	Port Sanilac, MI	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0663	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0664	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0665	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0666	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0669	East Setauket, NY	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0670	Port Jefferson, NY	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0670	Huron, OH	Safety Zones (Parts 147 and 165)	7/5/2008
USCG–2008–0671	Asharoken, NY	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0672	Shinnecock Canal	Safety Zones (Parts 147 and 165)	7/2/2008
USCG–2008–0676	Toledo, OH	Safety Zones (Parts 147 and 165)	7/3/2008
USCG–2008–0690	Glenbrook, NV	Safety Zones (Parts 147 and 165)	7/4/2008
USCG–2008–0693	Ohio River, OH	Safety Zones (Parts 147 and 165)	6/25/2008
USCG–2008–0700	Portland, OR	Safety Zones (Parts 147 and 165)	7/21/2008
USCG–2008–0701	Delaware Bay	Safety Zones (Parts 147 and 165)	7/19/2008
USCG–2008–0702	Baltimore, MD	Safety Zones (Parts 147 and 165)	7/9/2008
USCG–2008–0703	San Clemente, CA	Safety Zones (Parts 147 and 165)	7/22/2008
USCG–2008–0707	Port Huron, MI	Regulated Navigation Area (Part 165)	7/12/2008
USCG–2008–0708	Detroit, MI	Regulated Navigation Area (Part 165)	7/10/2008
USCG–2008–0710	Cape Vincent, NY	Safety Zones (Parts 147 and 165)	7/12/2008
USCG–2008–0712	Detroit, MI	Regulated Navigation Area (Part 165)	7/11/2008
USCG–2008–0713	Trenton, MI	Regulated Navigation Area (Part 165)	7/18/2008
USCG–2008–0715	Boston, MA	Safety Zones (Parts 147 and 165)	8/2/2008
USCG–2008–0717	Harbor Beach, MI	Safety Zones (Parts 147 and 165)	7/12/2008
USCG–2008–0718	St Clair, MI	Regulated Navigation Area (Part 165)	7/25/2008
USCG–2008–0719	Great Lakes, MI	Safety Zones (Parts 147 and 165)	7/20/2008
USCG–2008–0722	Pacific Grove, CA	Safety Zones (Parts 147 and 165)	7/26/2008
USCG–2008–0723	South Lake Tahoe, CA	Safety Zones (Parts 147 and 165)	8/31/2008
USCG–2008–0728	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	7/20/2008
USCG–2008–0730	Pittsburgh, CA	Safety Zones (Parts 147 and 165)	9/7/2008
USCG–2008–0731	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	7/26/2008
USCG–2008–0733	Lake Washington, WA	Special Local Regulation (Part 100)	8/31/2008
USCG–2008–0734	Lake Washington, WA	Special Local Regulation (Part 100)	8/31/2008
USCG–2008–0737	Portland, OR	Safety Zones (Parts 147 and 165)	7/26/2008
USCG–2008–0740	Chicago, IL	Safety Zones (Parts 147 and 165)	7/21/2008
USCG–2008–0741	Three Mile Bay, NY	Safety Zones (Parts 147 and 165)	7/26/2008
USCG–2008–0744	Annapolis, MD	Special Local Regulation (Part 100)	11/8/2008
USCG–2008–0745	Trenton, MI	Safety Zones (Parts 147 and 165)	7/20/2008
USCG–2008–0748	Seattle, WA	Security zones (Part 165)	7/30/2008
USCG–2008–0753	National Harbor, MD	Safety Zones (Parts 147 and 165)	8/4/2008
USCG–2008–0756	Blaine, WA	Safety Zones (Parts 147 and 165)	7/30/2008
USCG–2008–0757	Courcheville	Security zones (Part 165)	7/22/2008
USCG–2008–0764	Pittsburg, CA	Safety Zones (Parts 147 and 165)	8/15/2008
USCG–2008–0766	Mentor Headlands, OH	Safety Zones (Parts 147 and 165)	8/10/2008
USCG–2008–0768	Tampa, FL	Safety Zones (Parts 147 and 165)	8/18/2008
USCG–2008–0773	San Diego, CA	Safety Zones (Parts 147 and 165)	7/31/2008
USCG–2008–0774	San Diego, CA	Safety Zones (Parts 147 and 165)	8/7/2008
USCG–2008–0775	San Diego, CA	Safety Zones (Parts 147 and 165)	8/2/2008
USCG–2008–0779	Newburyport, MA	Safety Zones (Parts 147 and 165)	8/2/2008
USCG–2008–0781	San Diego, CA	Safety Zones (Parts 147 and 165)	8/11/2008
USCG–2008–0782	Sunrise, FL	Drawbridge Operations Regulation (Part 117)	8/18/2008
USCG–2008–0784	North Palm Beach, FL	Safety Zones (Parts 147 and 165)	10/11/2008
USCG–2008–0787	Duluth, MN	Safety Zones (Parts 147 and 165)	7/31/2008
USCG–2008–0790	Philadelphia, PA	Safety Zones (Parts 147 and 165)	7/29/2008
USCG–2008–0793	San Diego, CA	Safety Zones (Parts 147 and 165)	8/20/2008
USCG–2008–0795	Duluth, MN	Safety Zones (Parts 147 and 165)	8/1/2008
USCG–2008–0800	Tahoe City, CA	Safety Zones (Parts 147 and 165)	8/30/2008
USCG–2008–0803	Glenbrook, NV	Safety Zones (Parts 147 and 165)	8/9/2009
USCG–2008–0804	Laughlin, NV	Safety Zones (Parts 147 and 165)	8/31/2008

1ST QUARTER 2009 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2008–0805	Cleveland, OH	Safety Zones (Parts 147 and 165)	8/3/2008
USCG–2008–0806	Port Puget Sound	Safety Zones (Parts 147 and 165)	8/8/2008
USCG–2008–0808	Silverdale, WA	Safety Zones (Parts 147 and 165)	8/9/2008
USCG–2008–0809	Buck Island	Safety Zones (Parts 147 and 165)	11/20/2008
USCG–2008–0815	Ocean Gate, NJ	Safety Zones (Parts 147 and 165)	8/16/2008
USCG–2008–0818	Bridgehampton, NY	Safety Zones (Parts 147 and 165)	8/9/2008
USCG–2008–0824	Bridgewater, PA	Safety Zones (Parts 147 and 165)	8/16/2008
USCG–2008–0826	Southampton, NY	Safety Zones (Parts 147 and 165)	8/16/2008
USCG–2008–0842	San Diego, CA	Safety Zones (Parts 147 and 165)	10/11/2008
USCG–2008–0849	Rio Vista	Safety Zones (Parts 147 and 165)	10/11/2008
USCG–2008–0855	Miami, FL	Safety Zones (Parts 147 and 165)	8/14/2008
USCG–2008–0857	Puget Sound, WA	Security zones (Part 165)	8/19/2008
USCG–2008–0858	Quincy Fore River	Safety Zones (Parts 147 and 165)	8/14/2008
USCG–2008–0861	San Diego, CA	Security zones (Part 165)	8/22/2008
USCG–2008–0865	Ten Pound Island	Safety Zones (Parts 147 and 165)	8/30/2008
USCG–2008–0867	Lake Havasu, AZ	Safety Zones (Parts 147 and 165)	4/24/2008
USCG–2008–0875	Jacksonville, FL	Safety Zones (Parts 147 and 165)	8/20/2008
USCG–2008–0876	Port Angeles, WA	Special Local Regulation (Part 100)	10/3/2008
USCG–2008–0877	Olympia, WA	Safety Zones (Parts 147 and 165)	8/31/2008
USCG–2008–0879	Somerville, MA	Safety Zones (Parts 147 and 165)	10/4/2008
USCG–2008–0880	Hampton Bays, NY	Safety Zones (Parts 147 and 165)	8/29/2008
USCG–2008–0883	Superior, WI	Safety Zones (Parts 147 and 165)	8/22/2008
USCG–2008–0887	San Diego Bay, CA	Safety Zones (Parts 147 and 165)	9/18/2008
USCG–2008–0888	Hartford, CT	Safety Zones (Parts 147 and 165)	8/21/2008
USCG–2008–0889	San Diego, CA	Safety Zones (Parts 147 and 165)	9/13/2008
USCG–2008–0893	Hampton, VA	Special Local Regulation (Part 100)	9/5/2008
USCG–2008–0897	Grosse Pointe Shores, MI	Safety Zones (Parts 147 and 165)	9/6/2008
USCG–2008–0898	Chicago, IL	Safety Zones (Parts 147 and 165)	9/6/2008
USCG–2008–0901	St. Joseph, MI	Safety Zones (Parts 147 and 165)	8/31/2008
USCG–2008–0910	San Diego, CA	Safety Zones (Parts 147 and 165)	10/8/2008
USCG–2008–0911	San Diego, CA	Safety Zones (Parts 147 and 165)	9/19/2008
USCG–2008–0913	Cleveland, OH	Safety Zones (Parts 147 and 165)	8/27/2008
USCG–2008–0916	Fairfax County, VA	Safety Zones (Parts 147 and 165)	10/23/2008
USCG–2008–0917	Biscayne Bay, FL	Safety Zones (Parts 147 and 165)	10/4/2008
USCG–2008–0918	Pittsburg, CA	Special Local Regulation (Part 100)	9/7/2008
USCG–2008–0919	San Diego, CA	Safety Zones (Parts 147 and 165)	10/6/2008
USCG–2008–0932	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	10/4/2008
USCG–2008–0933	Biscayne Bay, FL	Regulated Navigation Area (Part 165)	10/11/2008
USCG–2008–0935	Aptos, CA	Safety Zones (Parts 147 and 165)	10/11/2008
USCG–2008–0936	Baltimore, MD	Safety Zones (Parts 147 and 165)	9/5/2008
USCG–2008–0938	Virginia-North Carolina	Safety Zones (Parts 147 and 165)	9/5/2008
USCG–2008–0939	North Carolina	Safety Zones (Parts 147 and 165)	9/5/2008
USCG–2008–0941	Charlottetown	Security zones (Part 165)	9/10/2008
USCG–2008–0945	Oahu, HI	Safety Zones (Parts 147 and 165)	9/4/2008
USCG–2008–0946	Honolulu, HI	Safety Zones (Parts 147 and 165)	9/5/2008
USCG–2008–0947	Honolulu, HI	Safety Zones (Parts 147 and 165)	9/5/2008
USCG–2008–0967	San Francisco Bay, CA	Special Local Regulation (Part 100)	10/11/2008
USCG–2008–0970	Lake Superior, WI	Safety Zones (Parts 147 and 165)	9/13/2008
USCG–2008–0979	San Clemente, CA	Safety Zones (Parts 147 and 165)	9/23/2008
USCG–2008–0983	Harris County, TX	Safety Zones (Parts 147 and 165)	9/17/2008
USCG–2008–0985	San Diego, CA	Safety Zones (Parts 147 and 165)	10/3/2008
USCG–2008–0990	San Diego, CA	Safety Zones (Parts 147 and 165)	10/19/2008
USCG–2008–0992	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	10/4/2008
USCG–2008–0996	Washington, DC	Safety Zones (Parts 147 and 165)	9/25/2008
USCG–2008–0999	Ingleside, TX	Safety Zones (Parts 147 and 165)	9/25/2008
USCG–2008–1000	Miami, FL	Safety Zones (Parts 147 and 165)	9/23/2008
USCG–2008–1003	New London, CT	Drawbridge Operations Regulation (Part 117)	10/6/2008
USCG–2008–1005	Hougton, MI	Safety Zones (Parts 147 and 165)	9/27/2008
USCG–2008–1008	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	10/10/2008
USCG–2008–1010	Duxbury, MA	Safety Zones (Parts 147 and 165)	9/27/2008
USCG–2008–1011	San Diego Bay, CA	Safety Zones (Parts 147 and 165)	10/15/2008
USCG–2008–1020	Cape Canaveral, FL	Drawbridge Operations Regulation (Part 117)	10/13/2008
USCG–2008–1023	San Diego, CA	Safety Zones (Parts 147 and 165)	10/8/2008
USCG–2008–1024	San Diego, CA	Safety Zones (Parts 147 and 165)	10/16/2008
USCG–2008–1033	Detroit, MI	Safety Zones (Parts 147 and 165)	10/17/2008
USCG–2008–1039	Paintersville, CA	Drawbridge Operations Regulation (Part 117)	10/15/2008
USCG–2008–1043	New Haven, CT	Safety Zones (Parts 147 and 165)	10/13/2008
USCG–2008–1048	Natchez, MS	Safety Zones (Parts 147 and 165)	10/17/2008
USCG–2008–1049	Cicero, IL	Safety Zones (Parts 147 and 165)	10/14/2008
USCG–2008–1050	Kiawah Island, SC	Security zones (Part 165)	10/10/2008
USCG–2008–1056	San Juan, PR	Safety Zones (Parts 147 and 165)	10/13/2008
USCG–2008–1068	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	10/22/2008

1ST QUARTER 2009 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2008–1069	Miami, FL	Security zones (Part 165)	11/11/2008
USCG–2008–1075	San Diego, CA	Safety Zones (Parts 147 and 165)	11/21/2008
USCG–2008–1076	San Francisco, CA	Safety Zones (Parts 147 and 165)	10/24/2008
USCG–2008–1086	San Diego, CA	Safety Zones (Parts 147 and 165)	11/14/2008
USCG–2008–1089	Charles County, MD	Security zones (Part 165)	10/30/2008
USCG–2008–1098	Chicago, IL	Security zones (Part 165)	11/4/2008
USCG–2008–1100	New York, NY	Security zones (Part 165)	11/11/2008
USCG–2008–1103	San Diego, CA	Safety Zones (Parts 147 and 165)	12/31/2008
USCG–2008–1115	San Diego, CA	Safety Zones (Parts 147 and 165)	12/15/2008
USCG–2008–1123	National Harbor, MD	Safety Zones (Parts 147 and 165)	11/24/2008
USCG–2008–1127	Maury Island, WA	Safety Zones (Parts 147 and 165)	1/13/2009
USCG–2008–1138	San Clemente, CA	Safety Zones (Parts 147 and 165)	11/25/2008
USCG–2008–1142	Yaphank, NY	Drawbridge Operations Regulation (Part 117)	11/24/2008
USCG–2008–1145	Charleston, SC	Safety Zones (Parts 147 and 165)	12/10/2008
USCG–2008–1153	Tomkins Cove, NY	Safety Zones (Parts 147 and 165)	11/25/2008
USCG–2008–1159	Kodiak Island, AK	Safety Zones (Parts 147 and 165)	12/5/2008
USCG–2008–1174	Chicago, IL	Safety Zones (Parts 147 and 165)	12/13/2008
USCG–2008–1181	Charles City County, VA	Safety Zones (Parts 147 and 165)	2/2/2009
USCG–2008–1182	Annapolis, MD	Safety Zones (Parts 147 and 165)	12/13/2008
USCG–2008–1199	Tillamook Bay, OR	Safety Zones (Parts 147 and 165)	12/12/2008
USCG–2008–1202	Depoe Bay, OR	Safety Zones (Parts 147 and 165)	12/25/2008
USCG–2008–1204	Chetco River, OR	Safety Zones (Parts 147 and 165)	12/28/2008
USCG–2008–1219	Oceanside, CA	Safety Zones (Parts 147 and 165)	4/4/2009
USCG–2008–1221	Parker, AZ	Safety Zones (Parts 147 and 165)	4/17/2009
USCG–2008–1222	Pittsburgh, PA	Safety Zones (Parts 147 and 165)	5/2/2009
USCG–2008–1233	Puerto Rico	Security zones (Part 165)	1/2/2009
USCG–2008–1234	San Juan, PR	Safety Zones (Parts 147 and 165)	1/2/2009
USCG–2008–1235	Oahu, HI	Security zones (Part 165)	12/22/2008
USCG–2008–1245	Tillamook Bay, OR	Safety Zones (Parts 147 and 165)	2/11/2009
USCG–2008–1250	New Haven, CT	Safety Zones (Parts 147 and 165)	12/30/2008
USCG–2008–1260	Laughlin, NV	Safety Zones (Parts 147 and 165)	5/24/2009
USCG–2008–1266	New Haven, CT	Safety Zones (Parts 147 and 165)	1/6/2009
USCG–2008–1272	Massachusetts Bay, Ma	Safety Zones (Parts 147 and 165)	3/14/2009

[FR Doc. 2010–20249 Filed 8–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2010–0479]

RIN 1625–AA09

Drawbridge Operation Regulation; Curtis Creek, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulation governing the operation of the Pennington Avenue Bridge, across Curtis Creek, mile 0.9, at Baltimore, MD. This deviation allows the bridge to operate on a restricted schedule to facilitate structural repairs.

DATES: This deviation is effective from 6 a.m. on August 5, 2010, to 11:59 p.m. on December 1, 2010. This document is effective from date of signature due to safety concerns created by the structural repairs.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0479 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0479 in the "Keyword" box and then clicking "Search". 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District; telephone 757–398–6422, e-mail *Bill.H.Brazier@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Maryland State Highway Administration, who owns and operates this double-leaf bascule drawbridge, has requested a temporary deviation from the current general operating regulations set out in 33 CFR 117.5 that requires the bridge to open promptly and fully for the passage of vessels when a request to open is given, to facilitate structural repair.

The Pennington Avenue Bridge has a vertical clearance in the closed position to vessels of 38 feet, above mean high water.

Under this temporary deviation, the drawbridge with four lift spans will provide full and partial openings of the spans for vessels on different dates and times. To facilitate the replacement of the grid deck, floor beams and stringers, the drawbridge will be maintained in closed position to vessels to include immobilizing half of the draw spans to single-leaf operation. The drawbridge will operate as follows:

(1) Closed to vessels beginning at 6 a.m. on August 5, 2010 until and including 11:59 p.m. on August 22, 2010; however, vessels openings will be provided if at least 48 hours advance notice is given;

(2) Single leaf operation on the northwest side span starting at 5 a.m. on August 22, 2010 or after the vessel IDA

LEWIS has passed until and including 11:59 p.m. on September 11, 2010. The opposite connecting spans on the south side while not under repair will continue to open for vessels;

(3) Closed to vessels beginning at 6 a.m. on September 12, 2010 until and including 11:59 p.m. on October 6, 2010; however, vessels openings will be provided if at least 48 hours advance notice is given;

(4) Single leaf operation on the northeast side span starting at 5 a.m. on October 8, 2010 until and including 11:59 p.m. on October 28, 2010. The opposite connecting spans on the south side while not under repair will continue to open for vessels;

(5) Closed to vessels beginning at 6 a.m. on October 29, 2010 until and including 11:59 p.m. on December 1, 2010; however, vessels openings will be provided if at least 48 hours advance notice is given.

Coast Guard vessels bound for the Coast Guard Yard at Curtis Bay, as well as a significant amount of commercial vessel traffic, must pass through the Pennington Avenue Bridge. The Coast Guard has carefully coordinated the restrictions with the Yard and the commercial users of the waterway. Additionally, the Coast Guard will inform unexpected users of the waterway through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

Vessels may pass underneath the bridge while the bridge is in the closed position. There are no alternate routes for vessels transiting this section of Curtis Creek and the drawbridge will be able to open in the event of an emergency.

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

Dated: August 5, 2010.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 2010–20250 Filed 8–16–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2010–0529; FRL–9189–8]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Transportation Conformity Consultation Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Indiana State Implementation Plan (SIP) submitted on June 4, 2010. This revision consists of criteria and procedures related to the State's interagency consultation and certain control and mitigation measures addressing "Transportation Conformity." This approval will meet a requirement of the Clean Air Act (Act) and EPA's Transportation Conformity regulations.

DATES: This direct final rule will be effective October 18, 2010, unless EPA receives adverse comments by September 16, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2010–0529, by one of the following methods:

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

2. *E-mail: bortzer.jay@epa.gov.*

3. *Fax:* (312) 692–2054.

4. *Mail:* Jay Elmer Bortzer, Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Jay Elmer Bortzer, Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2010–0529. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Patricia Morris, Environmental Scientist, at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656, *morris.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is Transportation Conformity?

Transportation Conformity is required under Section 176(c) of the Act to ensure that Federally supported highway, transit projects, and other activities are consistent with (conform to) the purpose of the approved SIP. Transportation Conformity currently applies to areas that are designated nonattainment and those areas redesignated to attainment after 1990 (maintenance areas), with maintenance plans developed under section 175A of the Act for the following transportation-related criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations or delay timely attainment of the relevant National Ambient Air Quality Standards (NAAQS). The Federal Transportation Conformity regulations (Federal Rule) are found in 40 CFR part 93 subpart A, and provisions related to conformity SIPs are found in 40 CFR 51.390.

II. What is the Background for This Action?

On August 10, 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59) was signed into law. SAFETEA–LU revised certain provisions of section 176(c) of the Act, related to Transportation Conformity. Prior to SAFETEA–LU, States were required to address all of the Federal Rule's provisions in their conformity SIPs. After SAFETEA–LU, SIPs were required to contain all or portions of only the following three sections of the Federal Rule, modified as appropriate to each State's circumstances: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (written commitments to implement certain kinds of control measures); and 40 CFR 93.125(c) (written commitments to implement certain kinds of mitigation measures). Pursuant to SAFETEA–LU, States are no longer required to submit conformity SIP revisions that address the other sections of the Federal Rule.

III. What Did the State Submit and How Did We Evaluate It?

A public hearing on the Transportation Conformity SIP was held on May 11, 2010 in Indianapolis, Indiana. Also, a 30-day public comment period was announced which closed on May 14, 2010. No comments were received from the public. EPA, however, made comments on three items which needed clarification.

On June 4, 2010, the Indiana Department of Environmental Management (IDEM) submitted a revision to its SIP for Transportation Conformity purposes. Indiana provided the requested clarifications in the cover letter.

The SIP revision consists of nine Metropolitan Planning Organization (MPO) board resolutions, one MPO Memorandum of Understanding (MOU), one State and Federal agency statewide MOU and an interagency consultation group conformity consultation guidance document, which will constitute the Indiana SIP for transportation conformity purposes. The MPO board resolutions are for the Delaware-Muncie Metropolitan Plan Commission, the Evansville Metropolitan Planning Organization, the Indianapolis Metropolitan Planning Organization, the Michiana Area Council of Governments, the Madison County Council of Government, the Northeastern Indiana Regional Coordinating Council, the Northwestern Indiana Regional Planning Commission, the Ohio-Kentucky-Indiana Regional Council of Governments, and the West Central Indiana Economic Development District. The Kentuckiana Regional Planning and Development Agency is the MPO that has a signed MOU as the consultation agreement.

The resolutions and MOUs were executed among the State of Indiana, the MPOs in nonattainment and maintenance areas, and the Federal agencies which have responsibility for undertaking transportation conformity in conjunction with transportation planning activities. The statewide MOU adopts the individual MPO resolutions, covers rural nonattainment and maintenance areas and provides for consultation among and between State and Federal agencies. These resolutions and agreements which make up the SIP revision address the three provisions of the Federal Rule required under SAFETEA–LU: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (certain control measures); and 40 CFR 93.125(c) (mitigation measures). Each of the individual MPO resolutions and the MOUs provide detailed consultation procedures specific to each MPO area and adopted by the participants in that MPO area.

Indiana has included several bi-State areas. The Louisville area is a bi-State Indiana/Kentucky area and the MOU for this area provides for consultation with all parties in both States. The MOU has been submitted by Kentucky as part of the Kentucky transportation conformity SIP, and EPA approved the SIP on April 21, 2010 (75 FR 20780). The same MOU has been submitted by Indiana as part of the Indiana transportation conformity SIP.

The Cincinnati area is also a bi-State area with portions of Indiana and Kentucky included in the Cincinnati, Ohio ozone and PM nonattainment areas. The resolution passed by the MPO board for this area provides for consultation between Ohio State and local agencies and Indiana State agencies and Federal agencies in both Indiana and Ohio. The MPO has a separate agreement for the Kentucky portion to provide for consultation on Kentucky conformity determinations. A separate agreement is acceptable because the SIPs provide separate motor vehicle emissions budgets for the Kentucky portion of the Cincinnati area. The Ohio and Indiana portions of the Cincinnati area have combined motor vehicle emissions budgets and thus must work together for conformity determinations.

EPA has evaluated this SIP revision including the nine MPO board resolutions, the one MPO MOU, and the one statewide MOU, and has determined that the nine MPO board resolutions and the MOU for KIPDA have met the requirements of the Federal transportation conformity rules as described in 40 CFR Part 51, Subpart T, and 40 CFR Part 93, Subpart A. As EPA has previously informed Indiana, there were three wording clarifications needed for consistency between the State and Federal agency MOU and the Conformity Rule. EPA believes that the State of Indiana has satisfactorily addressed these concerns, as follows.

First, the statewide MOU seemed to have inadvertently left off a sentence in the conflict resolution section that would allow the Governor of Indiana to delegate the decision on conflicts. In response, IDEM has agreed to incorporate the recommended language into a future revision of the MOU; and, in the interim, IDEM agrees to resolve conflicts in accordance with language provided by EPA.

In addition, the statewide MOU did not address the cost of documents to the public (if there is a cost) in accordance with EPA's fee schedule in 49 CFR 7.43. IDEM responded by citing Indiana's statutory authority which it believes is consistent with the Federal fee rule, and agreed to also clarify this matter in a future MOU revision.

Finally, EPA noted that IDEM had not provided sufficient detail about the public process for "hot spot analysis" reviews. Indiana responded by citing a specific policy document, the "INDOT Public Involvement Manual," which details the public participation process.

Indiana has satisfied the public participation and comprehensive interagency consultation requirement during development and adoption of the resolutions at the MPO level and also with a public hearing and public comment on the entire SIP on May 11, 2010 and public comment period until May 14, 2010. EPA's rule requires the States to develop their own processes and procedures to be followed by the MPO, State Departments of Transportation (DOTs), and United States Department of Transportation (USDOT) in consulting with the State and local air quality agencies and EPA before making conformity determinations.

The conformity SIP revision must also include processes and procedures for the State and local air quality agencies and EPA to coordinate the development of applicable SIPs with MPOs, State DOTs, and USDOT.

EPA has reviewed the submittal to assure consistency with the CAA as amended by SAFETEA–LU and EPA regulations (40 CFR Part 93 and 40 CFR 51.390) governing State procedures for transportation conformity and interagency consultation. Our review used the document "Guidance for Developing Transportation Conformity SIPs" dated January 2009, including "Appendix A: Checklist for Developing a Conformity SIP", and has concluded that the submittal is approvable.

IV. What Action is EPA Taking?

For the reasons set forth above, EPA is taking action under section 110 of the Act to approve the Indiana SIP revision for Transportation Conformity, which was submitted on June 4, 2010.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective October 18, 2010 without further notice unless we receive relevant adverse written comments by September 16, 2010. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective October 18, 2010.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 18, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 5, 2010.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart P—Indiana

■ 2. Part 52 is amended by adding a new § 52.799 to read as follows:

§ 52.799 Transportation conformity.

On June 4, 2010, Indiana submitted the Transportation Conformity Consultation SIP consisting of Metropolitan Planning Organization resolutions and Memorandums of Understanding to address interagency consultation and enforceability of certain transportation related control measures and mitigation measures. EPA is approving the Transportation Conformity SIP from Indiana.

[FR Doc. 2010–20180 Filed 8–16–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2005–OH–0003; FRL–9187–4]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Final Approval and Promulgation of State Implementation Plans; Carbon Monoxide and Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under section 110(k)(3) of the Clean Air Act (CAA), EPA is disapproving an Ohio regulation revision pertaining to volatile organic compound (VOC) limits for high performance architectural coatings contained in Ohio Administrative Code (OAC) 3745–21–09(U)(1)(h). Under section 110(k)(4) of the CAA, we are also conditionally approving a revision of paragraph (BBB)(1) of OAC 3745–21–09, based on a State commitment to provide for enforceability of a pertinent limit no later than one year from the date of EPA's conditional approval.

DATES: This final rule is effective on September 16, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2005–OH–0003. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Were EPA's Proposed Actions?

On January 22, 2010 (75 FR 3668), EPA proposed a variety of actions regarding revisions to OAC 3745–21, from submittals dated October 9, 2000, February 6, 2001, August 3, 2001, and June 24, 2003. We proposed to (1) approve into the State Implementation Plan (SIP) certain revisions in OAC 3745–21 which have been adopted by the State; (2) disapprove a revision pertaining to high performance architectural coatings; (3) conditionally approve a revision of paragraph (BBB)(1) of OAC 3745–21–09, if the State gives EPA a letter that commits to provide for enforceability of the 1 ton per year limit no later than one year from the expected date of EPA's conditional approval; (4) take no action on certain regulation revisions, and, (5) provide notice that EPA and Ohio have created a mechanism to incorporate into the Ohio SIP permits to facilities operating under previously issued alternate VOC limit and emission control exemptions for miscellaneous metal coating operations under OAC 3745–21–09(U)(2)(f). For administrative convenience, in a separate rulemaking published June 21, 2010, at 75 FR 34939, we approved certain submitted regulation revisions, took no action on others, and recognized various emission control exemptions that have been granted for miscellaneous metal coating operations under OAC 3745–21–09(U)(2)(f). Today's action makes final our disapproval and conditional approval of portions of OAC rule 3745–21–09. You can learn more information about the rule revisions submitted and our evaluation of them in our proposed action.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. We did not receive any comments on the proposed action. On March 1, and July 2, 2010, Ohio EPA committed to remedy deficiencies in OAC 3745–21–09(BBB)(1).

III. What Actions is EPA Taking?

EPA is disapproving the coating VOC content limit for high performance architectural aluminum coatings contained in paragraph (U)(1)(h) of OAC 3745–21–09 because the State has not demonstrated that the relaxation of the VOC content limit for high performance architectural aluminum coatings would not interfere with attainment of the ozone standard and other requirements. EPA is conditionally approving a revision to OAC 3745–21–09(BBB)(1) provided that the State is able to, within one year of our final rulemaking, further revise the paragraph to include test procedures and recordkeeping requirements compatible with the paragraph's revised emission limit. On March 1, and July 2, 2010, Ohio EPA committed to remedy the deficiencies in this revision. If the State fails to correct this rule and confirm this correction within the allowed one year period, this conditional approval will revert to disapproval.

IV. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, therefore, is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA).

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

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal Standard.

National Technology Transfer Advancement Act

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

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 18, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Volatile organic compounds.

Dated: August 3, 2010.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart KK—Ohio

■ 2. Section 52.1885 is amended by adding paragraph (kk) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(kk) *Disapproval.* EPA is disapproving the coating VOC content limit for high performance architectural aluminum coatings contained in paragraph (U)(1)(h) of chapter 3745–21–09 of the Ohio Administrative Code.

■ 3. Section 52.1919 is amended by adding paragraph (b) to read as follows:

§ 52.1919 Identification of plan—conditional approval.

* * * * *

(b) On October 9, 2000, the Ohio Environmental Protection Agency submitted a revision to Ohio Administrative Code (OAC) 3745–21–09(BBB). The revision removed a requirement that for the agerite resin D process, the VOC emissions from the vapor recovery system vents and neutralization and distillation system vents (except wash kettle or still feed condenser vents, stills vacuum jet tailpipe vents, and process emergency safety relief devices) be vented to an emissions control device that is designed and operated to achieve an

emissions control efficiency of at least 90 percent, by weight. In place of this deleted emissions control efficiency requirement, the revised paragraph now specifies a total annual VOC emissions limit of 1.0 ton from the recovery system and neutralization and distillation system vents. The revision lacked test procedures and record keeping requirements compatible with the revised emission limit. On March 1, 2010, Ohio submitted a commitment to revise OAC 3745–21–09(BBB) to include the necessary test procedures and record keeping requirements by September 16, 2011. When EPA determines the state has met its commitment, OAC 3745–21–09(BBB) will be incorporated by reference into the SIP.

[FR Doc. 2010–19827 Filed 8–16–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 204

[Docket ID FEMA–2010–0036]

RIN–1660–AA72

Procedural Changes to the Fire Management Assistance Declaration Process

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: By this final rule, the Federal Emergency Management Agency (FEMA) is updating its Fire Management Assistance Grant Program regulations to reflect a change in the internal delegation of authority for fire management assistance declarations, and resulting internal procedural changes that are impacted by the change in authority. FEMA is also making nomenclature changes to update names and titles to reflect recent changes to FEMA's organizational structure.

DATES: This final rule is effective August 17, 2010.

ADDRESSES: A copy of this rule is available electronically on the Federal eRulemaking Portal at *www.regulations.gov.* (In the Keyword Search or ID box, type FEMA–2010–0036.)

The rule is also available for inspection at the Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: James A. Walke, Director, Public Assistance Division, Recovery Directorate, DHS/FEMA, 500 C Street, SW., Washington, DC 20472–3300. *Phone:* 202–646–2751. *E-mail: James.Walke@dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Fire Management Assistance Grant (FMAG) Program assists State, local, and Tribal governments with the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster. The FMAG declaration process may be initiated when a fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The FMAG declaration process is initiated by a State submitting a request for assistance to the Regional Administrator. The request addresses the threat to lives and improved property, the availability of State and local firefighting resources, high fire danger conditions, and the potential for major economic impact. Those criteria are supported with documentation that contains factual data and professional estimates. The Regional Administrator then coordinates with the Principal Advisor and forwards the request to the Assistant Administrator for the Disaster Assistance Directorate. The Assistant Administrator for the Disaster Assistance Directorate then makes a determination whether the fire or fire complex threatens such destruction as would constitute a major disaster. The entire process is accomplished on an expedited basis.

II. Discussion of the Rule

In December 2009, FEMA underwent a reorganization to streamline and improve FEMA's programs and, consistent with the reorganization, is now revising the delegation of authority under the FMAG program regarding determinations that a fire or fire complex threatens such destruction as would constitute a major disaster. This final rule therefore updates title 44, part 204 of the Code of Federal Regulations (CFR) to reflect those organizational and procedural changes. This final rule does not change the substantive eligibility requirements, contained in FEMA's existing regulations.

On March 3, 2004, the Secretary for Homeland Security delegated the authority to make FMAG determinations to the Administrator (then called the Under Secretary for Emergency Preparedness and Response) in Homeland Security Delegation Number 9001. This delegation to the Administrator explicitly authorizes redelegation of this authority. This procedural rule removes the redelegation of authority to the Assistant Administrator for the Disaster Assistance Directorate (now the Assistant Administrator for Recovery per the 2009 internal reorganization) and reverts the authority to issue FMAG declarations and decide appeals back to the Administrator.

Although the Administrator is rescinding his redelegation of this authority to the Assistant Administrator for the Disaster Assistance Directorate, at any time the Administrator may redelegate this authority at his discretion, in writing. Such delegations are not required to be made through regulation, or published in the **Federal Register**. Pursuant to the Federal Register Act (44 U.S.C. 1505), the only documents that are required to be published in the **Federal Register** are Presidential proclamations, Executive Orders, and those documents that either the President has determined to have general applicability and legal effect or are required to be published in the **Federal Register** by Act of Congress. The delegation of the FEMA Administrator's authority to make determinations regarding the FMAG program does not trigger those criteria.

States that seek a declaration under the FMAG program will continue to submit their requests for declarations to FEMA through the Regional Administrator. The Regional Administrator will forward the request to the Administrator for a determination on the declaration. This change in redelegation will affect the procedural requirements associated with applying for fire management assistance declarations by changing who reviews requests for FMAG declarations. This rule only changes the internal processing procedures that occur after a State submits a request. The application requirements remain the same, as do the requirements for eligibility.

III. Regulatory Information

A. Administrative Procedure Act

FEMA did not publish a notice of proposed rulemaking (NPRM) for this regulation. FEMA finds that this rule is exempt from the Administrative Procedure Act's (5 U.S.C. 553(b)) notice and comment rulemaking requirements because it is purely procedural in nature. *See* 5 U.S.C. 553(b)(3)(A). This rule updates FEMA's regulations to reflect a change in the internal delegation of authority for fire

management assistance declarations and appeals. It will not change the requirements to request an FMAG declaration, the eligibility requirements to receive such a declaration, the amount of assistance available should a declaration be made, or the appeals process. These changes do not confer any substantive rights, benefits or obligations.

This rule is not a substantive rule because it addresses technical matters regarding internal agency procedure; therefore it does not require a delayed effective date pursuant to 5 U.S.C. 553(d). Therefore this rule is effective immediately upon publication in the **Federal Register**.

B. Executive Order 12866, Regulatory Planning and Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), accordingly FEMA has not submitted it to the Office of Management and Budget (OMB) for review. As this rule involves revisions to internal agency procedures, will not change the requirements to request a declaration, the eligibility requirements for a declaration, or the amount of assistance available should a declaration be made, it will not impose any costs to the public.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that special consideration be given to the effects of regulations on small entities. This rule will not have a significant economic impact on the regulated public. Therefore, FEMA certifies that this will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3501 *et seq.*), as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. This rule will not result in a new collection of information, or revise an existing collection under the PRA.

E. Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), 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. FEMA has analyzed this final rule under that Order and determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory 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. As this final rule will not result in such an expenditure, this rule is not an unfunded Federal mandate.

G. Executive Order 12630, Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, Mar. 18, 1988).

H. Executive Order 12898, Environmental Justice

Under Executive Order 12898, as amended, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, Feb. 16, 1994), FEMA has undertaken to incorporate environmental justice into its policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, or national origin or income level.

No action that FEMA can anticipate under this final rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population. Accordingly, the requirements of Executive Order 12898 do not apply to this final rule.

I. Executive Order 12988, Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, Feb. 7, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

J. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000), 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.

K. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This final rule will not create environmental health risks or safety risks for children under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997).

L. National Environmental Policy Act

This final rule is not a major agency action, nor will it affect the quality of the environment. FEMA regulations at 44 CFR 10.8(d)(2)(xviii)(N) categorically exclude Fire Management Assistance Grants from the preparation of environmental impact statements and environmental assessments. Pursuant to 44 CFR 10.8(d)(2)(ii), regulations related to actions that qualify for categorical exclusions are also categorically excluded. Therefore, this final rule will not require the preparation of either an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act of 1969, Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*), as amended.

M. Congressional Review of Agency Rulemaking

FEMA has sent this final rule to Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act (Act), Public Law 104–121, 110 Stat. 873 (Mar. 29, 1996) (5 U.S.C. 804). The rule is not a "major rule" within the meaning of that Act and will not result in an annual effect on the economy of $100,000,000 or more. Moreover, it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. FEMA does not expect that it will have significant adverse effects on

competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 44 CFR Part 204

Administrative practice and procedures, Fire prevention, Grant programs, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, FEMA amends 44 CFR part 204 as follows:

PART 204—FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

■ 1. The authority citation for part 204 is revised to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207; Reorganization Plan No. 3 of 1978, 43 FR 41943; 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

§ 204.3 [Amended]

■ 2. In § 204.3:

■ a. Remove the definition of the term "Assistant Administrator"; and

■ b. In the definition of the term "Declared fire", remove the words "Assistant Administrator for the Disaster Assistance Directorate" and add in their place, the word "Administrator".

§ 204.21 [Amended]

■ 3. In § 204.21, paragraph (a), remove the words "Assistant Administrator for the Disaster Assistance Directorate" and add in their place, the word "Administrator".

■ 4. Revise § 204.23 to read as follows:

§ 204.23 Processing a request for a fire management assistance declaration.

(a) In processing a State's request for a fire management assistance declaration, the Regional Administrator, in coordination with the Principal Advisor, will verify the information submitted in the State's request.

(b) The Principal Advisor, at the request of the Regional Administrator, is responsible for providing FEMA a technical assessment of the fire or fire complex for which the State is requesting a fire management assistance declaration. The Principal Advisor may consult with State agencies, usually emergency management or forestry, as well as the Incident Commander, in order to provide FEMA with an accurate assessment.

■ 5. Revise § 204.24 to read as follows:

§ 204.24 Determination on request for a fire management assistance declaration.

The Administrator will review all information submitted in the State's request along with the Principal Advisor's assessment and render a determination. The determination will be based on the conditions of the fire or fire complex existing at the time of the State's request. When possible, the Administrator will evaluate the request and make a determination within several hours. Once the Administrator renders a determination, FEMA will promptly notify the State of the determination.

■ 6. Revise § 204.26 to read as follows:

§ 204.26 Appeal of fire management assistance declaration denial.

(a) *Submitting an appeal.* When a State's request for a fire management assistance declaration is denied, the Governor or GAR may appeal the decision in writing within 30 days after the date of the letter denying the request. The State should submit this one-time request for reconsideration in writing, with appropriate additional information to the Administrator through the Regional Administrator. The Administrator will reevaluate the State's request and notify the State of the final determination within 90 days of receipt of the appeal or the receipt of additional requested information.

(b) *Requesting a time-extension.* The Administrator may extend the 30-day period for filing an appeal, provided that the Governor or the GAR submits a written

(c) *Request for such an extension within the 30-day period.* The Administrator will evaluate the need for an extension based on the reasons cited in the request and either approve or deny the request for an extension.

Dated: August 11, 2010.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–20281 Filed 8–16–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 635

[Docket No. 080519678–0313–03]

RIN 0648–AW65

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 3

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to final regulations that were published on June 1, 2010. This change ensures that the process is preserved for adjusting annual shark quotas based on over- and underharvests. This correction makes a change to amendatory instructions in the final rule to accurately reflect NMFS' intention to effect a conforming amendment to 50 CFR part 635.

DATES: Effective August 17, 2010.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or LeAnn Southward Hogan at 301–713–2347 or (fax) 301–713–1917.

SUPPLEMENTARY INFORMATION: The final rule published on June 1, 2010 (75 FR 30484), and implemented Amendment 3 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP).

The correction amends § 635.27 (b) in Title 50 of the CFR. In the amendatory instructions in the published final rule (75 FR 30484), instruction 12a revised 50 CFR 635.27 (b)(1)(i) through (v), relating to, among other things, pelagic shark quotas and annual quota adjustments. The instructions, however, inadvertently omitted instructions to make a conforming amendment requiring removal of § 635.27 (b)(1)(vii), which relate specifically to annual quota adjustments. Because of the error, § 635.27 (b)(1)(vii) is duplicative and inconsistent with § 635.27 (b)(1)(i). The new § 635.27 (b)(1)(i) includes much of the same information and include only minor changes from § 635.27 (b)(1)(vii). This duplication of provisions providing inconsistent treatment of the same amendment issue will likely cause unnecessary confusion within the regulated fishing industry and among fishery managers as it creates ambiguous guidelines and two separate standards for adjusting annual shark quotas based on over- and underharvests for all the

federally managed shark species in the Atlantic shark fishery.

This correction makes a change to amendatory instructions in the final rule to accurately reflect NMFS' intention to effect a conforming amendment to 50 CFR 635.27 (b) by including instructions in the final rule for the removal of § 635.27 (b)(1)(vii).

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator of Fisheries(AA) finds good cause to waive prior notice and opportunity for public comment otherwise required by this section. The corrections made by this rule do not make any substantive changes in the rights or obligations of fishermen managed under Amendment 3 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan implemented in the June 1, 2010, final rule. No aspect of this action is controversial, and no change in operating practices in the fishery is required. It was not NMFS' intent to impose duplicative regulations in the same section. These errors should be corrected immediately to eliminate potential confusion by the regulated public. Removing the duplicative paragraphs without notice does not create problems for fishermen in terms of compliance with regulations because the duplicative paragraphs deal with the adjustment of quotas done by fishery managers. However, if left unrevised, these duplicative measures create ambiguous guidance and two separate standards for fishery managers when adjusting annual shark quotas based on over- and underharvests for all the federally managed shark species in the Atlantic shark fishery. For the same reasons, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30–day delay in effective date. Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

Need for Correction

Accordingly, in the final rule published on June 1, 2010 (75 FR 30484), on page 30526, column 2, amendatory instruction number 12a is revised to read as follows:

§ 635.27 [Amended]

■ 12a. In § 635.27, paragraphs (b)(1)(i) through (v) are revised to read as follows. Paragraph (b)(1)(vii) is removed.

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

Dated: August 11, 2010.

Samuel D. Rauch III,

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

[FR Doc. 2010–20199 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 100106010–0074–01]

RIN 0648–AY52

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; Emergency Rule Extension

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

ACTION: Temporary rule; emergency action extension.

SUMMARY: NMFS is extending the emergency action, implemented on February 18, 2010, to exempt individual fishing quota (IFQ) and individual processing quota (IPQ) issued for the Western Aleutian Islands golden king crab fishery from the West regional designation. Under the Bering Sea/Aleutian Islands Crab Rationalization Program, Federal regulations require that golden king crab harvested with IFQ with a West regional designation be delivered to a processor with West designated IPQ in the West region of the Aleutian Islands. An emergency exists because, due to a recent unforeseen event, no crab processing facility is open in the West region. This emergency rule extension is necessary to ensure that the exemption remains in effect to prevent disruption to the Aleutian Islands golden king crab fishery by allowing fishermen to deliver crab harvested with West designated IFQ to processors outside the West region and allow processors with West designated IPQ to process that crab outside the West region for the 2010/2011 fishing season. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs, and other applicable law.

DATES: Effective from August 18, 2010, through February 20, 2011.

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR) prepared for this action may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region website at *http://alaskafisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228.

SUPPLEMENTARY INFORMATION: Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provides authority for rulemaking to address an emergency. Under that section, a Regional Fishery Management Council may recommend emergency rulemaking, if it finds an emergency exists. At its December 2009 meeting, the North Pacific Fishery Management Council (Council) voted 10 to 1 to request that NMFS promulgate an emergency rule to relieve the existing regional delivery and processing requirement in the Western Aleutian Islands golden king crab fishery.

On February 18, 2010, NMFS published an emergency action to exempt West designated IFQ and West designated IPQ for the Western Aleutian Islands golden king crab fishery from the West regional designation in regulations at 50 CFR 680.40(c)(4) and § 680.40(e)(2), respectively, until August 17, 2010 (75 FR 7205). NMFS invited public comments until March 22, 2010. NMFS received no public comments.

Removing the West regional designation from this IFQ and IPQ removes the requirement that these shares be used in the West region. With this exemption, Western Aleutian Islands golden king crab harvested with West designated IFQ could be delivered to a processor with IPQ in any location, and processors could process crab using West designated IPQ in any location. The preamble to the emergency rule (75 FR 7205, February 18, 2010) provides additional background information.

Section 305(c)(3)(B) of the Magnuson-Stevens Act authorizes NMFS to extend the emergency action for up to 186 days beyond the August 17, 2010, expiration of the initial emergency action, provided the public has had an opportunity to comment on the emergency regulation and, in the case of a Council recommendation, the Council is actively preparing a fishery management plan amendment to address the emergency on a permanent basis.

At its April 2010 meeting, the Council adopted Amendment 37 to the FMP to permanently address the emergency by establishing a process for quota share holders, processor quota share holders, and the municipalities of Adak and

Atka to agree to and notify NMFS when deliveries are exempt from the West regional designation requirements. The Council and NMFS are preparing the amendment and rulemaking documents for review by the Secretary of Commerce.

With this emergency rule extension, NMFS would extend the exemption for Class A IFQ and IPQ issued for the Western Aleutian Islands golden king crab fishery from the West regional designation for an additional 186 days. The emergency rule extension would provide relief for the 2010/2011 crab fishing season and enable the fishery to occur during the time period Amendment 37 and its implementing regulations are under Secretarial review.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this emergency rule extension is consistent with the national standards and other provisions of the Magnuson-Stevens Act and other applicable laws. NMFS has the authority to extend the emergency action for up to 186 days beyond the August 17, 2010, expiration of the initial emergency action, as authorized under section 305(c)(3)(B) of the Magnuson-Stevens Act.

The Assistant Administrator for Fisheries, NOAA, 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. In the initial emergency rule published on February 18, 2010 (75 FR 7205), NMFS requested comments and received none.

The measures of this emergency rule extension remain unchanged from the measures contained in the initial emergency action. If the initial emergency action were allowed to lapse, a substantial portion of the fishery will likely remain unharvested, causing economic harm to fishery participants. Extending the provisions of the emergency rule without additional notice and opportunity for public comment will ensure the 2010/2011 Aleutian Islands golden king crab fishery continues uninterrupted and will prevent unnecessary adverse economic impacts. Therefore, for the reasons outlined above, the Assistant Administrator finds it is unnecessary and contrary to the public interest to provide any additional notice and opportunity for public comment under 5 U.S.C. 553(b)(B) prior to publishing the emergency rule extension.

Because this rule relieves a restriction by exempting IFQ and IPQ from the West region designation, it is not subject to the 30–day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1).

This emergency rule extension has been determined to be not significant for purposes of Executive Order 12866. The regulatory impact review prepared for this action is available from NMFS (see ADDRESSES).

No duplication, overlap, or conflict between this action and existing Federal rules has been identified.

This emergency 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.

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

Dated: August 11, 2010.

Samuel D. Rauch III,

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

[FR Doc. 2010–20325 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 75, No. 158
Tuesday, August 17, 2010

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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AC72

Acknowledgment Letters for Customer Funds and Secured Amount Funds; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a heading in the notice of proposed rulemaking published in the **Federal Register** of August 9, 2010, regarding Acknowledgment Letters for Customer Funds and Secured Amount Funds.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, 202–418–5096.

Correction

In the notice of proposed rulemaking, beginning on page 47738 in the issue of August 9, 2010, make the following correction.

§ 1.20 [Corrected]

On page 47743 in the middle column, correct the heading "Appendix § 1.20—Acknowledgment Letter for CFTC Regulation 1.20 Customer Segregated Account" to read "Appendix A to § 1.20—Acknowledgment Letter for CFTC Regulation 1.20 Customer Segregated Account."

Dated: August 11, 2010.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2010–20311 Filed 8–16–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 701

RIN 1240–AA02

Regulations Implementing the Longshore and Harbor Workers' Compensation Act: Recreational Vessels

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Notice of Proposed Rulemaking; request for comments.

SUMMARY: This document contains proposed regulations implementing amendments to the Longshore and Harbor Workers' Compensation Act (LHWCA) by the American Recovery and Reinvestment Act of 2009 (ARRA), relating to the exclusion of certain recreational-vessel workers from the LHWCA's definition of "employee." These regulations would clarify both the definition of "recreational vessel" and those circumstances under which workers are excluded from LHWCA coverage when working on those vessels. The proposed rules also codify the Department's longstanding view that employees are covered under the LHWCA so long as some of their work constitutes "maritime employment" within the meaning of the statute.

DATES: The Department invites written comments on the proposed rule from interested parties. The Department is particularly interested in receiving comments regarding the proposed definition of "recreational vessel." Written comments must be received by October 18, 2010.

ADDRESSES: You may submit written comments, identified by RIN number 1240–AA02, by any of the following methods. To facilitate the receipt and processing of comment letters, OWCP encourages interested parties to submit their comments electronically.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments.
- *Facsimile:* (202) 693–1380 (this is not a toll-free number). Only comments of ten or fewer pages (including a FAX cover sheet and attachments, if any) will be accepted by FAX.
- *Regular Mail:* Submit comments on paper, disk, or CD–ROM to the Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C–4315, 200 Constitution Avenue, NW., Washington, DC 20210. The Department's receipt of U.S. mail may be significantly delayed due to security procedures. You must take this into consideration when preparing to meet the deadline for submitting comments.
- *Hand Delivery/Courier:* Submit comments on paper, disk, or CD–ROM to the Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C–4315, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: All submissions received must include the agency name and the Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: To read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C–4315, 200 Constitution Avenue, NW., Washington, DC 20210. *Telephone:* (202) 693–0038 (this is not a toll-free number). TTY/TDD callers may dial toll free 1–800–877–8339 for further information.

SUPPLEMENTARY INFORMATION:

I. Background of This Rulemaking

Section 2(3) of the LHWCA defines "employee" to mean "any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker * * *." 33 U.S.C. 902(3). The remainder of this provision, initially enacted as part of the 1984 amendments to the LHWCA, lists eight categories of workers who are excluded from the definition of "employee" and therefore excluded from LHWCA coverage. 33 U.S.C. 902(3)(A)–(H). Section 2(3)(F) in particular excluded from coverage "individuals employed to

build, repair, or dismantle any recreational vessel under sixty-five feet in length," provided that such individuals were "subject to coverage under a State workers' compensation law." 33 U.S.C. 902(3)(F).

Section 803 of Title IX of the American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115, 127 (2009), amended the section 2(3)(F) exclusion. That provision now excludes "individuals employed to build any recreational vessel under sixty-five feet in length, *or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel,*" and retains the State-workers'-compensation-coverage proviso. 33 U.S.C. 902(3)(F), as amended by Public Law 111–5 section 803, 123 Stat 115, 187 (2009) (emphasis supplied).

Thus, under the original version of section 2(3)(F), all individuals working on recreational vessels shorter than sixty-five feet were excluded from the definition of "employee." The amended exclusion retains this same rule for employees building recreational vessels. For individuals who repair or dismantle recreational vessels, however, the amended exclusion provides for different treatment. Now, workers who repair recreational vessels or dismantle them for repair are excluded from the definition of "employee" regardless of the vessel's length. With the removal of the sixty-five feet length limit, the number of vessels that will be considered recreational for LHWCA purposes will increase; and as vessel numbers increase, the number of workers who repair or dismantle them for repair will naturally increase as well. On the other hand, amended section 2(3)(F) no longer excludes workers who dismantle recreational vessels, except when the dismantling is in connection with a repair. Thus, some workers previously excluded may now be considered "employees" under section 2(3).

The proposed regulations clarify how amended section 2(3)(F) should be interpreted and applied in several respects.

II. Summary of the Proposed Rule

A. Effective Date of Amendment and Retroactive Impact (§§ 701.503–701.505)

The Department proposes to issue a regulation clarifying the effective date of the section 2(3)(F) amendment, as well as delineating which claims or injuries are affected by it. The purpose of this section is to prevent or alleviate confusion among interested parties, and to make plain whether a particular claim or injury is excluded from LHWCA coverage as a result of the amendment.

Effective Date

ARRA contains neither a general effective-date provision nor a specific effective date for the section 2(3)(F) amendment. Where an act of Congress does not specify its effective date, the law will take effect on the date it is enacted into law, *i.e.,* the date it is signed by the President. *See Altizer* v. *Deeds,* 191 F.3d 540, 545 (4th Cir. 1999); 3 Norman J. Singer, *Sutherland Statutory Construction* section 33:6 (6th ed. 2002). Thus, the section 2(3)(F) amendment became effective on February 17, 2009, the date the President signed the ARRA. The Department proposes to codify this date in the regulation.

Injuries and Claims Affected

In addition to no effective date, the section 2(3)(F) amendment does not specify whether it applies to injuries and claims occurring prior to the effective date. Retroactive application of statutes is generally disfavored, especially where private rights are affected. *See Landgraf* v. *USI Film Products,* 511 U.S. 244, 264–73 (1994). Thus, courts will presume that a statute affecting substantive rights does not apply retroactively absent clear congressional intent to the contrary. *Landgraf,* 511 U.S. at 264, 280; *Bowen* v. *Georgetown Univ. Hospital,* 488 U.S. 204, 208 (1988); *cf. Bradley* v. *School Bd. of Richmond,* 416 U.S. 696, 711 (1974) (with respect to procedural and collateral issues, a court is generally required "to apply the law in effect at the time it renders its decision").

In *Landgraf,* the Court stated that, in determining whether a statute applies retroactively, the focus should be on "whether it would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed." 511 U.S. at 280. If the statute does affect a substantive right, then the presumption against retroactive application applies. *Id.* In contrast, the presumption does not apply where the statute addresses prospective relief (changing the remedies available to the prevailing party), procedural issues or collateral matters (*e.g.,* attorney fees). 511 U.S. at 276–79.

The Court subsequently fashioned "a sequence of analysis" for courts to use when applying these principles to a statutory provision. *Fernandez-Vargas* v. *Gonzales,* 548 U.S. 30, 37–38 (2006). First, the court must determine if Congress expressly prescribed the temporal application of the statute, or if congressional intent can be gleaned from the application of the canons of statutory construction. 548 U.S. at 37. If this does not settle the matter, then the court must determine if the statute affected "substantive rights, liabilities or duties [on the basis of] conduct arising before [its] enactment." *Id.* (quoting *Landgraf,* 511 U.S. at 278) (brackets in *Fernandez-Vargas*). If a substantive right is affected, then the presumption against retroactivity precludes application of the statute. 548 U.S. at 37–38.

Applying this sequence of analysis to the section 2(3)(F) amendment, the Department has concluded that the amendment cannot be applied to injuries occurring before February 17, 2009. First, Congress did not expressly address whether the section 2(3)(F) amendment applies retroactively. Likewise, it is not possible to determine congressional intent through the application of principles of statutory construction. The legislative history is silent regarding retroactive application of the provision and there is no clue in the language of the amendment or the ARRA generally.

Second, the amendment plainly affects a substantive right. It effectively removes from LHWCA coverage a class of employees (*e.g.,* workers repairing recreational vessels sixty-five feet in length or greater) who previously had been covered. If applied to injuries occurring prior to February 17, 2009, the amendment would strip those employees of a right to recover LHWCA benefits which had vested at the time of their injuries. In addition, the amendment no longer excludes from coverage a class of employees (*e.g.,* workers who dismantle obsolete recreational vessels) who previously had been excluded. Applying the amendment retroactively to these individuals would alter the employers' pre-existing duties by making them liable for LHWCA benefits.

Thus, for injuries occurring prior to February 17, 2009, the Department has concluded that the amendment does not apply because Congress did not explicitly make the amendment retroactive. The proposed rule provides that the compensability of these injuries remains governed by section 2(3)(F) as it existed prior to the ARRA amendment. For injuries occurring on or after February 17, 2009, the effective date of the amendment, the proposed rules state the obvious: The compensability of these injuries is governed by the section 2(3)(F) amendment.

The Department's proposal is also consistent with Congress' treatment of previous amendments to the LHWCA's coverage provisions. The 1972 amendments (expanding coverage to land-based workers who met the situs and status tests) took effect thirty days after enactment (*i.e.,* November 26, 1972). Public Law 92–576 § 22, 86 Stat. 1251, 1265 (1972). The courts held that, with respect to coverage, those amendments did not apply to injuries occurring prior to the effective date. *See, e.g., A/S J. Ludwig Mowinckles Rederi* v. *Tidewater Constr. Corp.,* 559 F.2d 928, 930 n. 1 (4th Cir. 1977). Similarly, Congress expressly provided that the coverage provisions of the 1984 amendments (creating certain exclusions from coverage, including section 2(3)(F)) would apply only to injuries occurring after September 28, 1984, the date of enactment of the amendments. Public Law 98–426 § 28(c), 98 Stat. 1639, 1655 (1984).

Date of Injury

The key date in determining LHWCA coverage generally is the date of injury. It is the occurrence of an injury arising out of and in the course of employment that gives rise to a LHWCA claim. *Ins. Co. of North Am.* v. *U.S. Dep't of Labor,* 969 F.2d 1400, 1404 (2d Cir. 1992) ("An injury causing disability or death triggers the provisions of the Act."). As a result, whether an employee is covered under section 2(3) must be determined as of the date of his injury. *See, e.g., Triguero* v. *Consolidated Rail Corp.,* 932 F.2d 95, 99–101 (2d Cir. 1991).

Given the importance of the date of injury, the proposed regulations contain standards for determining the date of injury for different types of potentially compensable injuries: Traumatic injury, occupational illness, hearing loss and death benefits. These regulations will help clarify when the section 2(3)(F) amendment applies.

Traumatic Injuries. For traumatic injuries, the Department proposes to codify what is self-evident: The date of injury is the date when the employee suffers harm. If the injury occurred before February 17, 2009, a recreational vessel worker may be a covered "employee" even if the worker is in the class that would be excluded by the ARRA amendment (*e.g.,* a worker who repairs recreational vessels 100 feet in length). If the injury occurs on or after February 17, 2009, the employee's eligibility is governed by the section 2(3)(F) amendment.

Occupational Disease. The date of injury is not as obvious in the occupational disease (or infection) context. Because they may surface only after a long latency period, courts confronted with this question in various LHWCA contexts have consistently held that the date of injury is the date the disease, its work-related nature, and a resulting disability (*i.e.,* a loss of wage-earning capacity) all become manifest to the employee. *See, e.g., Ins. Co. of North Am.,* 969 F.2d at 1404–05; *SAIF Corp./Oregon Ship* v. *Johnson,* 908 F.2d 1434, 1438–40 (9th Cir. 1990). These decisions are consistent with the effective-date provisions Congress adopted for the 1984 LHWCA amendments, which created the section 2(3)(F) exclusion. Congress provided that where the date of injury determines the applicability of the amendments, the date of injury for an occupational disease would be the date of manifestation. Public Law 98–426 § 28(g), 98 Stat. 1639, 1655 (1984). That provision states:

> [I]n the case of an occupational disease which does not immediately result in a disability or death, an injury shall be deemed to arise on the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the disease[.]

Id. See also 33 U.S.C. 910(i) (linking time of injury to manifestation in occupational disease cases for purposes of computing compensation); 33 U.S.C. 912 (employee suffering occupational disease must give notice of injury within one year of manifestation); 33 U.S.C. 913 (employee suffering occupational disease must file claim for compensation within two years of manifestation).

The proposed rules codify the position adopted by Congress and the courts for purposes of the section 2(3)(F) amendment. Under the proposal, the date of injury for an occupational illness will be the date that all three of the following facts are manifest to the employee: (1) The employee suffers a disease; (2) the disease is related to his employment with the responsible employer; and (3) the employee is suffering from a disability related to the disease. If the condition became manifest prior to February 17, 2009, then the employee remains eligible for coverage under the LHWCA, even if the employee is in the class affected by the ARRA amendment. If, however, the condition became manifest on or after February 17, 2009, the employee's eligibility is governed by the section 2(3)(F) amendment, even if the last exposure to injurious stimuli was prior to that date.

Hearing Loss. Determining the date of injury in the hearing loss context poses special challenges that warrant specific regulatory guidance. Unlike a long-latency disease such as asbestosis—a classic occupational disease—an employee who is exposed to excessive noise and suffers a hearing loss has an immediate injury and disability. *See generally Bath Iron Works Corp.* v. *Director, OWCP,* 506 U.S. 153, 162–63 (1993). Yet determining the precise date of injury may still be difficult. The proposed regulation resolves this issue by using the date the employee receives an audiogram that documents an employment-related hearing loss. This regulation echoes the statutory and regulatory standards for triggering the time for filing a notice of injury or claim for compensation for hearing loss. 33 U.S.C 908(c)(13)(D); 20 CFR 702.212(a)(3), 702.221(b).

Death-Benefit Claims. The LHWCA provides benefits to survivors of employees who died as the result of a work-related injury. 33 U.S.C. 909. The courts have long recognized that a death-benefits claim "is a distinct right governed by the law in effect when death occurs." *State Ins. Fund* v. *Pesce,* 548 F.2d 1112, 1114 (2d Cir. 1977) (citing *Hampton Roads Stevedoring Corp.* v. *O'Hearne,* 184 F.2d 76, 79 (4th Cir. 1950)); *see also Ins. Co. of No. America* v. *U.S. Dep't of Labor,* 969 F.2d 1400, 1405–06 (2d Cir. 1992). In effect, these cases establish that the date of death is the date of injury for determining whether a death-benefit claim is covered by the LHWCA. The Department proposes to codify this rule in the regulation. Under the Department's proposal, where an employee is in the class affected by the amendment to section 2(3)(F), the employee's survivors remain eligible to receive death benefits if the employee died prior to February 17, 2009. If the employee died on or after February 17, however, the survivors cannot obtain benefits.

Prior Awards

Finally, the Department has already learned of some confusion among claimants, employers, and insurers with respect to prior awards to employees who would be excluded from coverage had their injuries occurred on or after February 17, 2009. Thus, the proposed rules clarify that where a compensation order has already been issued with respect to a pre-February 17, 2009, injury, the amendment to Section 2(3)(F) has no effect on such an order. Employers and insurers must still comply with all terms of the order, even if the employee would be excluded from coverage under the LHWCA if the injury occurred on or after February 17, 2009. This is in keeping with the

Department's view that the amendment has no retroactive effect.

B. What is a recreational vessel? (§ 701.501)

The proposed regulation updates and refines the definition of "recreational vessel." The Department's regulations have long defined "recreational vessel" as a vessel "manufactured or operated primarily for pleasure, or rented, leased or chartered by another for the latter's pleasure." 20 CFR 701.301(a)(12)(iii)(F) (2009). Taken verbatim from a statute administered by the Coast Guard, *see* 46 U.S.C. 2101(25), the Department adopted this definition in 1984, at the urging of many commenters, after the section 2(3)(F) exclusion was first enacted. 51 FR 4273 (Feb. 3, 1986). As noted above, the original section 2(3)(F) exclusion limited this general definition by vessel length, and excluded only those individuals who worked on recreational vessels under sixty-five feet in length.

The ARRA amendment, however, removed the vessel-length limitation for workers who either repair recreational vessels or dismantle them for repair, effectively rendering the current regulatory definition of "recreational vessel" as one without any limitation. As a result, both employers and employees could more frequently encounter difficulties determining which vessels are recreational. Further, the Department wishes to ensure that individuals who perform repair work on vessels that have a significant commercial purpose are not improperly excluded under amended section 2(3)(F) because the definition of "recreational vessel" is overly vague. Thus, the Department believes that further clarification of the definition is needed, especially with regard to the potential misclassification of passenger vessels.

To develop a precise definition of "recreational vessel," the Department believes it is appropriate to look again, as it did in 1984, to statutes and regulations outside the LHWCA context. This allows for formulation of a more widely-familiar and workable definition of the term.

In 1983, Congress passed a comprehensive maritime bill, which consolidated earlier laws and set forth various categories of vessels and the types of safety requirements applicable to each category. Public Law 98–89, 97 Stat. 500 (1983). This bill included the definition of "recreational vessel" that appears in the Department's current regulation. *Id.* at § 2101, 97 Stat. at 504, codified at 46 U.S.C. 2101(25). In conjunction with the statutory definition, the Coast Guard has also promulgated regulations and developed additional guidance materials to make clear what vessels are recreational for inspection purposes and what vessels fall into other categories. *E.g.,* 46 CFR 2.01–7; Navigation and Vessel Inspection Circular No. 7–94 (Sept. 30, 1994). These regulations and guidance take into account other amendments to the 1983 Act, including the Passenger Vessel Safety Act of 1993, Title V, Coast Guard Authorization Act of 1993, Public Law 103–206 sections 501–513, 107 Stat. 2419, 2439–43 (1993).

To clarify the statutory definition of "recreational vessel," Coast Guard regulations and guidance set forth precise criteria for defining a "recreational vessel." Essentially, the Coast Guard deems the following to be recreational: Any unchartered passenger vessel used for pleasure and carrying no passengers-for-hire (*i.e.,* paying passengers); and any chartered passenger vessel used for pleasure with no crew provided and with fewer than twelve passengers, none of whom is for-hire. All other passenger-carrying vessels fall into one of the following three categories: Uninspected passenger vessel; small passenger vessel; and passenger vessel. 46 CFR 2.01–7; Navigation and Vessel Inspection Circular No. 7–94 (Sept. 30, 1994). The latter two categories are subject to inspection by the Coast Guard, and all three of these non-recreational categories face more stringent safety standards than those imposed on recreational vessels.

The Coast Guard categories have been found to be a workable model for defining passenger vessels in other contexts. For example, the Environmental Protection Agency, in a regulation related to engine emissions standards for recreational vessels, excluded vessels defined by the Coast Guard as "small passenger vessels" and "passenger vessels." 40 CFR 94.2. And Congress, in drafting the Clean Boating Act of 2008, which related to engine discharge standards for recreational vessels, also incorporated the Coast Guard definition: The 2008 Act excluded from the "recreational vessel" definition any vessel subject to Coast Guard inspection, provided the vessel was commercial or carried passengers-for-hire. Public Law 110–288 section 3, 122 Stat. 2650, codified at 33 U.S.C. 1362(25)(B).

The consistent use of the Coast Guard vessel categories across boating safety and environmental laws suggests broad familiarity with their parameters within the boating community. Moreover, each of the various Coast Guard categories is based on specific factors, such as whether there are passengers-for-hire or hired crew. Thus, these categories provide a clear, objective basis by which employers and employees can readily ascertain whether a vessel being repaired is a "recreational vessel" for LHWCA coverage purposes. Furthermore, passenger vessels and small passenger vessels must display certificates of inspection, and uninspected passenger vessels are subject to certain safety requirements and must have a licensed operator. These indicia of non-recreational status will make it easier for employers and employees to recognize passenger vessels that should not be considered "recreational vessels" for purposes of the amended section 2(3)(F) exclusion.

Finally, the regulation clarifies the Department's intent to create a "general reference" to the Coast Guard statutes, so that subsequent amendments to those laws, as well as their implementing regulations, apply. In this way, the regulation is dynamic: changes in the industry that necessitate changes in the referenced statutes and their implementing regulations will be reflected in the LHWCA context as well.

C. What types of recreational-vessel work are excluded from coverage? (§ 701.502)

The proposed rule sets forth what types of recreational-vessel work may result in an individual being excluded from the definition "employee" under section 2(3)(F). For ease of application, the proposed rule includes separate standards for individuals whose injuries occurred before February 17, 2009 and those occurring on or after that date.

As previously noted, section 2(3) of the LHWCA defines "employee" as "any person engaged in maritime employment * * * including a ship repairman, shipbuilder, and ship-breaker" unless excluded by sections 2(3)(A)–(H). 33 U.S.C. 902(3). Prior to the ARRA amendment, section 2(3)(F) excluded all three of these occupations from the definition of "employee" when the individuals worked on recreational vessels under sixty-five feet in length. 33 U.S.C. 902(3)(F) (excluding "individuals employed to build, repair, or dismantle any recreational vessel under sixty-five feet in length"). Proposed § 701.502(a)(1) reflects this statutory standard.

Amended section 2(3)(F), however, takes a different approach and treats each of these occupations separately. It specifically excludes "individuals employed to build any recreational vessel under sixty-five feet in length, or individuals employed to repair any recreational vessel, or to dismantle any

part of a recreational vessel in connection with the repair of such vessel." Thus, individuals who build recreational vessels (*i.e.,* shipbuilders) are excluded only when working on vessels under sixty-five feet in length. Individuals who repair recreational vessels or dismantle them for repair (*i.e.,* repairmen) are excluded without regard to the vessel's size. But individuals who dismantle recreational vessels outside the repair context (*i.e.,* ship-breakers) are no longer excluded: Amended section 2(3)(F) is simply silent with regard to workers who dismantle obsolete recreational vessels.

The express inclusion of ship-breakers in the definition of "employee" coupled with amended section 2(3)(F)'s silence regarding workers who dismantle obsolete recreational vessels leads to the conclusion that these workers are covered under the LHWCA. The plain language of the statute dictates this result. Proposed § 701.502(a)(2) sets forth this distinction for injuries governed by the amended exclusion.

Proposed § 701.502(b)(1) revises the current regulatory definition of how recreational-vessel length is measured by excluding from the measurement certain attached structures. Currently, the regulations state that "length means a straight line measurement of the overall length from the foremost part of the vessel to the aftmost part of the vessel, measured parallel to the center line. The measurement shall be from end to end over the deck, excluding sheer." 20 CFR 701.301(a)(12)(iii)(F). This definition has proven uncontroversial but incomplete. Specifically, the Benefits Review Board had to determine whether certain attachments to a boat were to be counted in measuring length. The Board held that "the length of a recreational vessel is measured from the foremost part of the vessel to the aftmost part, including fixtures attached by the builder, for purposes of determining whether an employee is a maritime employee covered by the Act." *Powers* v. *Sea-Ray Boats,* 31 BRBS 206, 212 (1998).

The Department has determined that the regulation should be clarified by incorporating the Coast Guard's standard for excluding attachments from the length measurement. *See* 33 CFR 183.3. As noted above in the context of defining recreational vessels generally, adopting the Coast Guard's approach in this context has the advantage of wide knowledge and acceptance within the boating community. The proposed rule supplements the existing vessel-length regulation to create a bright-line standard for determining what structures are included in measuring length so that boat builders will face no uncertainty in determining their statutory obligations.

Proposed § 701.502(b)(2) and (3) clarify what constitutes "repair" and "dismantling" of a recreational vessel. Section 2(3)(F) (both pre- and post-amendment) excludes from the definition of "employee" individuals who "repair" recreational vessels. In general parlance, "repair" means to restore or mend. *See, e.g.,* The New Shorter *Oxford English Dictionary* (1993) (defining "repair" as to "[r]estore (a structure, machine, *etc.*) to unimpaired condition by replacing or fixing worn or damaged parts; mend."). In most instances, work performed on an existing vessel that maintains the vessel's character will be considered a "repair" of the vessel. But when the work is done to transform a recreational vessel into another type of vessel—one that no longer falls within the regulatory definition of "recreational vessel"—the work goes beyond restoring or mending and is properly classified as conversion rather than repair. *See, e.g.,* 46 U.S.C. 2101(14a)(B) (defining "major conversion" as including a conversion that "changes the type of the vessel"). The proposed regulation clarifies the Department's view that individuals who are employed to convert a recreational vessel to a different type of vessel do not fall into the section 2(3)(F) exclusion. For the same reasons, the proposed regulation similarly provides that the opposite process—converting a vessel that does not satisfy the regulatory definition of "recreational vessel" to one that does—does not constitute "repair" of a recreational vessel under section 2(3)(F).

Adoption of a bright-line rule for conversions will simplify the coverage inquiry. In both circumstances, the work necessarily includes some qualifying maritime employment (*i.e.,* the work performed at the beginning or the end of the conversion process when the vessel is not a recreational vessel). Adopting a bright-line rule avoids the problems inherent in determining exactly when in the conversion process the vessel in fact changes character and either becomes or ceases to be recreational.

Finally, proposed § 701.502(c) clarifies that a recreational-vessel worker may still be an "employee" if he or she performs other duties on recreational vessels that do not result in exclusion under section 2(3)(F) (*e.g.,* building a ninety-foot long recreational vessel) or performs other qualifying maritime employment in addition to non-qualifying recreational-vessel work. This provision recognizes what the Department proposes to make explicit by regulation: That individuals who walk in and out of qualifying employment in the course of their work are covered "employees." *See* discussion of § 701.303.

D. Walking In and Out of Qualifying Employment (§ 701.303)

This proposed regulation codifies the Director's longstanding position that the LHWCA covers a maritime employee if he or she regularly performs at least some duties as part of his or her overall employment that come within the ambit of the statute (*i.e.,* "qualifying" employment). Although the Supreme Court and the courts of appeals have generally endorsed this principle, the longshore community would benefit from the codification of a uniform legal standard for employees whose duties are not exclusively qualifying "maritime employment." In addition, the proposed rule clarifies that LHWCA coverage does not depend on whether the employee is performing qualifying maritime work or non-qualifying work at the time of injury.

While the proposed rule will apply to all LHWCA cases, codifying these principles at this time may alleviate some of the difficulties employees and employers will face in applying the amended recreational-vessel exclusion. Prior to the ARRA amendment, anyone building or repairing vessels sixty-five feet in length or longer would have been considered an "employee" regardless of the nature of the vessel (recreational or commercial). Now that the length limitation has been removed for repairing and dismantling for repair, the walking in and out of coverage problem will likely be exacerbated. Shipyards and repair facilities that can handle larger recreational vessels are more likely to be firms that also have the skills and capacity to handle commercial vessels. The proposed regulation ensures that employee status is not affected by the fact that the individual performs work on recreational vessels provided at least some of his or her work otherwise qualifies as "maritime employment."

Congress enacted the LHWCA in 1927 after the United States Supreme Court held that the States could not extend their workers' compensation laws to maritime workers injured on the navigable waters of the United States. *Southern Pacific Co.* v. *Jensen,* 244 U.S. 205, 217–18 (1917). Between 1927 and 1972, the water's edge defined the respective jurisdictions of the LHWCA and State law: State law covered any

injury occurring on land, while the LHWCA covered any injury occurring on water. This division of jurisdiction gave rise to the so-called "walk in/walk out" problem. A maritime employee ordinarily moved between ship and shore in the course of his daily employment. Thus, at any given time, the employee also moved in and out of LHWCA coverage; while on land, the employee would be subject to the vagaries of the particular State's workers' compensation law. To remedy this problem, Congress amended the LHWCA in 1972 to extend its reach landward to geographic areas where maritime work was performed. Public Law 92–576, 86 Stat. 1251 (1972). Nevertheless, the walk in/walk out problem remained unresolved to the extent that an employee's land-based duties still included tasks outside LHWCA coverage. And, significantly, the employee could sustain a work-related injury while performing either qualifying maritime work or non-qualifying tasks as part of his overall employment.

The Supreme Court's seminal decision in *Northeast Marine Terminal Co., Inc.* v. *Caputo,* 432 U.S. 249 (1977), provides a framework for analyzing the walk in/walk out question. The principal issue presented for judicial review was whether two employees who were injured while handling cargo at land-based terminals were covered under the LHWCA. Blundo worked as a "checker" marking cargo that was being unloaded from a dock-side container. Caputo loaded cargo that had already been discharged from ships onto consignees' trucks. Both employees could receive assignments on any given day that would require them to work either on land or aboard ships. The Court held that both employees were covered by the LHWCA.

The Court first undertook an extensive historical review of the LHWCA and the problems arising from the strict limitation on pre-1972 LHWCA coverage, which limited coverage to injuries occurring on navigable waters. 432 U.S. at 256–66. Of special concern was the lack of uniformity in coverage and benefits inherent in dividing jurisdiction between the State workers' compensation schemes and the Federal statute based solely on the situs of the injury. The Court concluded that the 1972 amendments "changed what had been essentially only a 'situs' test of eligibility for compensation to one looking to both the 'situs' of the injury and the 'status' of the injured." *Id.* at 264–65.

The Court then discussed whether Blundo and Caputo were "engaged in maritime employment" at the time of their injuries so as to satisfy the LHWCA's new status requirement. Citing the lack of guidance provided by Congress concerning the scope of the term, the Court considered a principal legislative motive in expanding LHWCA coverage shoreward: Modern methods of cargo-handling had shifted much of the longshore work from the ship's hold to the adjoining land facilities. *Id.* at 269–71. The Court held that Blundo was clearly covered because his job checking unloaded cargo was an integral part of the overall unloading process "as altered by the advent of containerization." *Id.* at 271.

As for Caputo, accommodating cargo-handling changes was not relevant to the status inquiry because he "was injured in the old-fashioned process of putting goods already unloaded from a ship or container into a delivery truck." *Id.* at 271–72. Thus, unlike Blundo, Caputo was injured after the unloading activities had terminated. The Court found the answer in "[a]nother dominant theme underlying the 1972 Amendments:"

> Congress wanted a "uniform compensation system to apply to employees who would otherwise be covered by this Act for part of their activity." It wanted a system that did not depend on the "fortuitous circumstances of whether the injury (to the longshoreman) occurred on land or over water." It therefore extended the situs to encompass the waterfront areas where the overall loading and unloading process occurs.

Id. at 272, quoting S. Rep. No. 92–1125, at 13; H.R. Rep. No. 92–1441, at 10–11, as reprinted in 1972 *U.S. Code Cong. & Admin. News*, 4698, 4708. In another passage aimed directly at the walk in/walk out coverage issue, the Court further observed:

> The Act focuses primarily on occupations: longshoreman, harbor worker, ship repairman, shipbuilder, shipbreaker. Both the text and the history demonstrate a desire to provide continuous coverage throughout their employment to these amphibious workers who, without the 1972 Amendments, would be covered only for part of their activity. It seems clear, therefore, that when Congress said it wanted to cover "longshoremen," it had in mind *persons whose employment is such that they spend at least some of their time in indisputably longshoring operations and who, without the 1972 Amendments, would be covered for only part of their activity.*
>
> * * * * *
>
> Thus, had Caputo avoided injury and completed loading the consignee's truck on the day of the accident, he then could have been assigned to unload a lighter. Since it is clear that he would have been covered while unloading such a vessel, to exclude him from the Act's coverage in the morning but include him in the afternoon would be to revitalize the shifting and fortuitous coverage that Congress intended to eliminate.

Id. at 273 (emphasis supplied), 274 (citation and footnote omitted). Accordingly, the Court held that Caputo, too, was covered by the LHWCA.

The basic premise of *Caputo* is that the 1972 amendments repudiated the unpredictability inherent in the pre-1972 walk in/walk out LHWCA coverage by looking to the overall occupational status of the employee. In two subsequent cases, the Court addressed the walk in/walk out issue in the context of the particular activities the employees were performing when they were injured. Significantly, however, the Court did not deviate from Caputo's bedrock principle that "maritime employment" for LHWCA purposes is a unitary concept: Coverage is established whether or not the employee was performing a particular covered activity when injured so long as his overall employment includes "some" qualifying maritime employment.

In *P.C. Pfeiffer Co., Inc.* v. *Ford,* 444 U.S. 69 (1979), two employees were injured while performing land-based tasks handling cargo. *Id.* at 71. Contractual agreements restricted both employees to land-based work; neither employee could be assigned tasks moving cargo between vessels and shoreside. But because both employees performed intermediate tasks in the loading process, the Court held that they were engaged in maritime employment covered by the LHWCA. *Id.* at 82–83. Significantly, the Court suggested that its decision did not represent a departure from *Caputo* despite its focus on the employees' particular activities when they were injured:

> Congress was especially concerned that some workers might walk in and walk out of coverage. Our observation that [the employees] were engaged in maritime employment at the time of their injuries does not undermine the holding of *Northeast Marine Terminal Co.* v. *Caputo,* 432 U.S. at 273–274 [remaining reporter citations omitted], that a worker is covered if he spends some of his time in indisputably longshoring operations and if, without the 1972 Act, he would be only partially covered.

Id. at 83 n.18.

The Court reiterated its support for *Caputo* once again in *Chesapeake & Ohio Railway Co.* v. *Schwalb,* 493 U.S. 40 (1989). The Court held that repairing and maintaining equipment used in the loading or unloading process is an essential maritime function and, thus, employees injured doing that work were

covered under the LHWCA. *Id.* at 47. In so finding, the Court also remarked: "Nor are maintenance employees removed from coverage if they also have duties not integrally connected with the loading or unloading functions." *Id.* Three Justices joined in a concurring opinion to emphasize that the lead decision should not be interpreted as a departure from *Caputo:*

> I do not understand our decision as in any way repudiating the "amphibious workers" doctrine this Court articulated in [*Caputo,* 432 U.S. at 272–74]. We hold today that [the injured employees] are covered by the LHWCA since they were injured while performing tasks essential to the process of loading ships. In light of *Northeast Marine Terminal Co.,* however, it is not essential to our holding that the employees were injured while actually engaged in these tasks. They are covered by the LHWCA even if, at the moment of injury, they had been performing other work that was not essential to the loading process.

Id. at 49 (Blackmun, Marshall and O'Connor, JJ., concurring). The concurring opinion reinforced its view by quoting *Ford,* 444 U.S. at 83 n.18, (quoted *supra*), in which the Court had disavowed any intention to undermine *Caputo* even though the employees there were performing longshoring duties when they were injured. 493 U.S. at 49–50. The concurring opinion concluded:

> To suggest that a worker like Schwalb, McGlone, or Goode, who spends part of his time maintaining or repairing loading equipment, and part of his time on other tasks (even general clean up, or repair of equipment not used for loading), is covered only if he is injured while engaged in the former kind of work, would bring the "walking in and out of coverage" problem back with a vengeance.

Id. at 50.

Caputo frames the coverage issue in terms of "persons whose employment is such that they spend *at least some of their time in indisputably longshoring operations * * *.*" 432 U.S. at 273 (emphasis supplied). *Ford* and *Schwalb* did not depart from this standard even though the Court focused on the nature of the employees' activities at the time of injury. And no court of appeals has concluded that the later Court cases deviate from *Caputo's* basic premise. *See Atlantic Container Service, Inc.* v. *Coleman,* 904 F.2d 611, 618 n.4 (11th Cir. 1990) (stating that a coverage test based on either the overall nature of the employee's work or the specific activity performed at the time of injury is consistent with *Schwalb*). In the interest of clarity, the proposed regulation provides that the work being performed at the time of injury does not alone determine whether LHWCA coverage is available to the employee.

The remaining issue concerns the meaning of "some" time spent in maritime employment in order to qualify for LHWCA coverage. None of the three Supreme Court decisions provide any guidance as to the quantitative or qualitative meaning of "some" time. Since *Caputo,* the courts of appeals have addressed the issue in a variety of circumstances. The cases fall into two general categories. In some cases, the court relied on a specific percentage of the employee's time spent in qualifying maritime activities to determine coverage. *See, e.g., Coastal Production Services* v. *Hudson,* 555 F.3d 426, 441 (5th Cir. 2009) (finding coverage for employee who spent 9.7 percent of employment in maritime work); *Maher Terminals, Inc.* v. *Director, OWCP [Riggio],* 330 F.3d 162, 169–70 (3d Cir. 2003) (finding coverage for employee who spent 50 percent of employment in maritime work); *Boudloche* v. *Howard Trucking Co.,* 632 F.2d 1346, 1347–48 (5th Cir. 1980) (finding coverage for employee who spent 2.5–5 percent of employment in maritime work); *Vicknair* v. *Avondale Ind., Inc.,* 51 Fed. Appx. 929, 2002 WL 31415174 (5th Cir. 2002) (finding coverage for employee who spent less than one percent of employment in maritime work). In other cases, the court considered more generally whether the employee's qualifying maritime work was "regular" or "episodic." *See, e.g., Peru* v. *Sharpshooter Spectrum Venture LLC,* 493 F.3d 1058, 1066 (9th Cir. 2007) (stating that coverage should apply if employee's maritime activities were more than *de minimis*); *Lennon* v. *Waterfront Transport,* 20 F.3d 658, 660–61 (5th Cir. 1994) (coverage is available if employee's maritime work is "sufficiently regular so as not to be considered episodic events"); *Alcala* v. *Director, OWCP,* 141 F.3d 942, 945 (9th Cir. 1998) (finding no coverage because employee's covered work "was infrequent or episodic and entirely discretionary in nature"); *Levins* v. *Benefits Review Board,* 724 F.2d 4, 9 (1st Cir. 1984) (coverage is available if employee's maritime work is "a regular portion of the *overall* tasks" assigned or assignable to employee) (emphasis in original); *Schwabenland* v. *Sanger Boats,* 683 F.2d 309, 312 (9th Cir. 1982) (rejecting requirement that maritime employment must comprise "substantial" portion of employee's overall employment). No court, however, has provided a bright-line rule based on a quantitative relationship between the employee's qualifying maritime work and his overall duties that determines the availability of LHWCA coverage.

The proposed regulation follows *Caputo's* formulation of LHWCA coverage in requiring that only "some" portion of the employee's overall work be qualifying maritime employment. The proposed rule then places an outer limit on what constitutes "some": The maritime employment must be more than infrequent or episodic, and must be considered a regular part of the employee's job. As such, the proposed regulation is consistent with the general trend of the court cases in focusing on whether the employee's qualifying maritime work is regular or irregular in order to determine whether the employee's overall work should be covered by the LHWCA. This approach therefore leaves the determination to the adjudicator in each case to assess the coverage issue on the facts presented. Finally, the proposed regulation repudiates any concern (as expressed by the concurring opinion in *Schwalb*) that an employee may walk in/walk out of coverage depending on whether he is injured while performing a qualifying maritime function or injured while performing other duties.

E. Technical Changes

To accommodate the addition of the proposed rules, the Department intends to: Re-title § 701.301 and the subheading immediately preceding it; move the lengthy definition of "employee" that currently appears in § 701.301 into a new § 701.302, and update the language of the paragraph containing the recreational vessel exclusion to reflect the amended statute and cross-reference new §§ 701.501–701.505; and add a new § 701.303 for the walking in and out of qualifying employment regulation.

III. Statutory Authority

Section 39(a) of the LHWCA (33 U.S.C. 939(a)) authorizes the Secretary of Labor to prescribe rules and regulations necessary for the administration and enforcement of the Act and its extensions.

IV. Information Collection Requirements (Subject to the Paperwork Reduction Act) Imposed Under the Proposed Rule

This rulemaking imposes no new collections of information.

V. Executive Order 12866 (Regulatory Planning and Review)

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), entitled "The Principles of Regulation."

The Department has determined that this proposed rule is not a "significant regulatory action" under Executive Order 12866, section 3(f). Accordingly, it does not require an assessment of potential costs and benefits under section 6(a)(3) of that order.

VI. Small Business Regulatory Enforcement Fairness Act of 1996

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996, enacted as Title II of Public Law 104–121 sections 201–253, 110 Stat. 847, 857 (1996), the Department will report promulgation of this proposed rule to both Houses of the Congress and to the Comptroller General prior to its effective date as a final rule. The report will state that the Department has concluded that the rule is not a "major rule" as defined under 5 U.S.C. 804(2).

VII. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector, "other than to the extent that such regulations incorporate requirements specifically set forth in law." For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased expenditures by State, local, and Tribal governments, or increased expenditures by the private sector of more than $100,000,000.

VIII. Regulatory Flexibility Act and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980, as amended (5 U.S.C. 601 *et seq.*), requires an agency to prepare a regulatory flexibility analysis when it proposes regulations that will have "a significant economic impact on a substantial number of small entities," or to certify that the proposed regulations will have no such impact, and to make the analysis or certification available for public comment. The Department believes that the LHWCA itself accounts for most, if not all, of the costs imposed on the industry and that the proposed rules do not add to those costs. The primary cost lies in purchasing commercial insurance or qualifying as a self-insurer to insure workers covered by the LHWCA. This requirement is imposed by statute. 33 U.S.C. 904, 932. By expanding the number of recreational vessel workers who will be excluded from coverage, the section 2(3)(F) amendment will generally reduce the recreational vessel industry's costs for purchasing workers' compensation insurance or, in the case of a self-insurer, providing compensation. Nonetheless, because the recreational-vessel building and repair industries include many small firms, the Department has conducted an initial regulatory flexibility analysis. A summary of that analysis is set forth below. A copy of the complete economic analysis, which includes references to source materials, is available upon request directed to the Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C–4315, 200 Constitution Avenue, NW., Washington, DC 20210.

Description of the Reasons That Action by the Agency Is Being Considered

The Department is proposing these rules to implement the ARRA amendment to section 2(3)(F) of the LHWCA. That amendment, *inter alia,* excludes from the definition of "employee" workers who repair or dismantle for repair all recreational vessels, so long as the workers are subject to coverage under a State's workers' compensation law. This amendment expanded the existing exclusion, which limited the exclusion to workers repairing recreational vessels less than sixty-five feet in length.

Objectives of, and Legal Basis for, the Proposed Rule

The primary goal of the rule is to provide a clear, workable definition of "recreational vessel." Because the sixty-five-foot limitation on what constitutes a recreational vessel has been removed, the amended exclusion presents more opportunities for confusion among vessel-repair enterprises about whether the boats their workers repair are "recreational vessels" within the meaning of the LHWCA. The Department has determined that the current regulatory definition of "recreational vessel" does not provide adequate guidance to the industry and its employees, and therefore proposes to adopt a revised rule that more clearly defines the term.

This definition, in turn, serves several purposes. It gives entities that build or repair vessels guidance regarding the classification of vessels their employees are working on so that they may insure themselves under the appropriate workers' compensation scheme (*i.e.,* the LHWCA or a State). Similarly, the definition provides guidance to workers who might otherwise be unsure of their rights under the LHWCA. Finally, a clear definition reduces the possibility of litigation over when the section 2(3)(F) exclusion applies.

In addition, the Department anticipates that in the absence of a size limitation, more questions will be raised regarding coverage for workers who perform a combination of qualifying work (*e.g.,* building a seventy-foot recreational vessel) and non-qualifying work (*e.g.,* repairing a seventy-foot recreational vessel). The Department thus wishes to clarify how the LHWCA applies to workers engaged in qualifying maritime employment whose job duties also include tasks that do not come within the ambit of the LHWCA. The proposed rule merely codifies existing law and therefore will have no cost effect on the industry.

The LHWCA empowers the Secretary of Labor "to make such rules and regulations * * * as may be necessary" to administer the statute. 33 U.S.C. 939. In addition, the Department, like any other administrative agency, possesses the inherent authority to promulgate regulations in order to fill gaps in the legislation that it is responsible for administering. *Chevron* v. *Natural Resources Defense Council,* 467 U.S. 837, 843–44 (1984). The Secretary has delegated her authority to the Director, Office of Workers' Compensation Programs. Secretary's Order 10–2009 (Nov. 6, 2009). This proposed rule falls within the Director's delegated authority.

Small Entities to Which the Proposed Rule Will Apply

To estimate the number of small businesses to which the proposed rule would apply, the Department considered both the numbers and size of recreational vessels and the nature of those business entities that build or repair vessels.

In 1988, there were 3,176 registered recreational vessels sixty-five feet or longer, accounting for less than 0.1 percent of 9.5 million recreational vessels in the United States. At that time, recreational vessels twenty-six feet and under represented more than 96 percent of all registered boats, with 5.2 million boats under sixteen feet and 4.0 million boats sixteen to less than twenty-six feet in length. Therefore, the effect of the 1984 Amendments to the Longshore Act, which first adopted the section 2(3)(F) exclusion, was to exempt practically all of the recreational marine industry from Longshore insurance.

In the subsequent twenty years, the number of recreational vessels sixty-five feet or longer increased almost three fold, to 11,514 boats by 2008. However,

these boats still represent 0.1 percent of all registered recreational vessels. The industry is still dominated by boats that are less than twenty-six feet in length. The prevailing trend has been toward boats sixteen to less than twenty-six feet in length; during the 1988–2008 period, the number of these boats grew 55.8 percent to 6.3 million vessels, whereas boats under sixteen feet declined 21.7 percent to 4.0 million. Together, these two categories account for 94.6 percent of the 10.9 million total registered recreational vessels.

In line with national statistics, there were 817 recreational vessels registered in Florida that were sixty-five feet or longer in 2008, which accounted for less than 0.1 percent of the almost 1 million statewide recreational vessels.

The small share of recreational vessels greater than sixty-five feet in length suggests that the boat repair industry's work is predominantly focused on smaller boats. However, the registered vessel records from the U.S. Coast Guard do not include foreign flagged vessels, which may be serviced by domestic boat repair establishments while sailing within U.S. waters. Therefore, the number and frequency of domestic and foreign owned recreational vessels greater than sixty-five feet in length that receive service by domestic boat repair establishments is probably relatively small but difficult to measure with any precision.

Within the larger vessel category, there were close to 5,000 "super-yachts" (vessels over eighty feet in length) globally in 2008, with 43 percent of those vessels between eighty and 100 feet and 36 percent between 100 and 165 feet. There were also 420 worldwide yachts over 165 feet in length and eighty-eight vessels over 235 feet. While many of these large boats are registered outside the United States, their size and ocean-going capability means that they could potentially enter U.S. waters for service or repair. Slightly less than half of the catalogue of vessels greater than eighty feet in length were built before 2000, while 22 percent were built before 1990. From 1990 through 2000, about 130 super-yachts were produced each year. However, since 2000, production has accelerated as the demand for these vessels continues to grow. From 2000 through 2008, an average of 310 super-yachts were produced each year, with 510 such yachts being built in 2008 alone. Within this large vessel category, 32 percent were built in Italy and 21 percent were produced in the United States.

Although recreational vessels greater than sixty-five feet in length compose a very small minority of total registered boats, the frequency and nature of their repair is dramatically different than smaller vessels. Anecdotal information provided by industry sources indicate that larger boats require more frequent servicing and that work is of a more specialized nature relative to smaller vessels. Larger vessels, which are more intricate, require substantially more maintenance and are more likely to require professional maintenance. Therefore, the proportion of boat repair establishments servicing recreational vessels sixty-five feet or larger is assumed to be substantially greater than the relative number of those vessels. For instance, the servicing of recreational vessels sixty-five feet or larger is estimated to comprise between 25 and 35 percent of the total business of recreational boat repair establishments that are located on coastal waters.

The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. It is also the standard used to classify small businesses for the Regulatory Flexibility Act. *See* 5 U.S.C. 601(3), 15 U.S.C. 632(a). NAICS was developed under the auspices of the Office of Management and Budget, and adopted in 1997 to replace the Standard Industrial Classification (SIC) system.

An explicit analysis of the recreational vessel building and repair industry is problematic because there are no designated NAICS codes assigned specifically to this industry. Instead, the boat building and repair industry is currently segmented into two NAICS industries:

(1) NAICS industry 336612 (Boat Building) comprises establishments primarily engaged in building boats that are suitable or intended for personal use, but exclude the repair and servicing of those boats. The key word in this industry definition is "primarily." Firms classified in this industry earn at least half of their revenue from boat building. Some of these firms may conduct significant repair service work (especially major renovations of yachts), but they are classified as boat builders based on the majority revenue source.

(2) NAICS industry 811490 (Other Personal and Household Goods Repair and Maintenance) comprise establishments primarily engaged in repairing and servicing personal or household-type goods. This broad industry includes, but does not separate, the repair of items such as garments, watches, jewelry, musical instruments, bicycles and motorcycles, motorboats, canoes, sailboats, and other recreational boats.

Industry data such as the number of establishments, annual revenue, and employment that are specific to the recreational vessel industry are, therefore, not directly available because the boat repair segment of this industry is combined with other personal and household repair and maintenance industries. However, prior to the current industry classification system, the SIC combined the two segments into one industry: SIC 3732 (Boat Building and Repairing). Therefore, the most recently available detailed SIC-based data are used to provide disaggregated estimates based on current NAICS-based data.[1]

In 1997, there were 2,782 establishments primarily engaged in building and repairing recreational boats. These establishments employed 50,876 workers and generated $6.4 billion in shipment value.[2] The boat repair segment accounted for 1,739 or 62.5 percent of the broader industry's establishments, but only 9,454 or 18.6 percent of the employees and $821 million or 12.7 percent of shipments.

In 2007, there were 1,102 establishments in NAICS industry 336612 (Recreational Boat Building). These establishments employed 53,466 workers, generated $11.1 billion in shipments, and had a payroll of $1.9 billion. This implies a 5.3 percent increase in recreational boat building establishments and a 29.1 percent increase in workers in the boat building segment since 1997.

As part of the SIC to NAICS conversion, the boat building portion of SIC 3732 was allocated to the standalone NAICS industry 336612 (Boat Building), while the boat repair segment of SIC 3732 was allocated within NAICS industry 81149 (Other Personal and Household Goods Repair and Maintenance). Within this broad NAICS industry, the boat repair industry accounted for 18.4 percent of the revenue in 1997, 11.9 percent of the establishments, 14.5 percent of the paid employees, and 17.9 percent of the total annual payroll.

In 2007, there were 9,631 establishments classified under NAICS industry 81149 (Other Personal and

[1] Although separate NAICS data is available for marinas, the Department did not rely on this data because marina workers are separately excluded from the ambit of the LHWCA if subject to a State workers' compensation law. 33 U.S.C. 902(3)(C).

[2] Manufacturers' shipments measure the dollar value of products sold by manufacturing establishments and are based on net selling values, f.o.b. (free on board) plant, after discounts and allowances are excluded.

Household Goods Repair and Maintenance). These establishments employed 33,136 workers, generated $2.8 billion in revenue, and had $882.5 million in annual payroll.[3] Applying the 1997 SIC-to-NAICS distribution ratios, an estimated 1,150 of those establishments were primarily engaged in recreational boat repair in 2007 and employed 4,800 workers. However, this method assumes that the distribution of establishments within NAICS 81149 was fixed from 1997 through 2007. Therefore, a 33.9 percent decrease in the number of other personal and household goods repair and maintenance establishments and a 49.2 percent decrease in employment imply commensurate declines in the boat repair industry. This seems highly improbable given the increase of establishments and employment within the boat building industry; the steady number of overall recreational vessel registrations; the demand shift toward larger recreational boats; and the changing nature of the other establishments within NAICS 81149. Therefore, applying the same industry growth rates experienced by boat building establishments, an estimated 1,837 establishments were primarily engaged in recreational boat repair in 2007. These establishments employed 12,203 workers, generated $1.6 billion in revenue, and had $436 million in annual payroll.[4] This seems to be the more credible estimate of the size of the boat repair industry in 2007.

The combined boat building and estimated boat repair industry, therefore, had approximately 2,900 establishments in 2007 that employed 65,700 workers, generated about $12.8 billion in combined shipments and revenue, and had a $2.3 billion payroll. The boat building segment comprised 81 percent of the overall employment and payroll and generated 87 percent of the output value. However, for every one boat building firm there were three, more labor-intensive, boat repair establishments.

Small establishments dominate both industries, although they are more heavily weighted within the boat repair industry. In 2007, the average establishment in the boat building industry employed 48.5 workers, whereas the average boat repair establishment employed 6.6 workers. Confirming this employment dynamic, estimates using data from the U.S. Census Bureau's County Business Patterns reveal that of the 1,102 establishments engaged in boat building, 651 (59 percent) had 9 employees or fewer and 928 (84 percent) had 49 employees or fewer. Another 186 establishments (17 percent) employed between 50 and 249 workers, while an additional 19 establishments employed 500 or more workers. Conversely, approximately 86 percent of boat repair establishments had 9 employees or fewer and 95 percent employed 19 or fewer workers.

The Small Business Administration (SBA) defines establishment size standards to determine whether a business entity, including all of its affiliates, is small and, thus, eligible for Government programs and preferences reserved for "small business" concerns. A size standard is usually stated in number of employees for manufacturing industries and average annual receipts for most nonmanufacturing industries.

The SBA size standard for the ship building and repair industry (NAICS 336611) is 1,000 employees; boat building (NAICS 336612) is 500 employees; and other personal and household goods repair and maintenance (NAICS 811490) is $7.0 million in annual receipts. In 2007, the average establishment in the boat building industry generated $10.1 million in shipments, whereas the average boat repair establishment generated approximately $886,000 in revenues. Therefore, for the purpose of the proposed regulations, the typical establishment within the boat repair industry falls within the small business designation.

The Department is not able to determine, however, which of these small businesses will be affected by the proposed rule due to a lack of data. The available data does not segregate establishments by work performed on the specific types of vessels identified as recreational by the Coast Guard and as adopted in the proposed rules. Moreover, it is likely that some of these building and repair businesses engage in both commercial and recreational-vessel work. To the extent the employer uses a common work force for both tasks, the statute would require the employer to obtain LHWCA insurance by virtue of the commercial work. Accordingly, the Department invites comments on this issue.

Projected Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The proposed rules do not directly impose any reporting or recordkeeping requirements on any entities, regardless of size. Nor do the rules impose other significant costs beyond those imposed by the LHWCA itself. The statute requires employers whose employees are covered by the LHWCA to secure the payment of compensation by either purchasing commercial insurance or qualifying as a Department-approved self-insurer. 33 U.S.C. 904, 932. The ARRA amendment to section 2(3)(F) significantly expanded the exclusion for recreational vessel workers, thereby reducing the number of workers considered employees for LHWCA coverage purposes. Thus, both small and large businesses that repair recreational vessels sixty-five feet or greater in length who had previously been required to purchase LHWCA insurance may be relieved of that obligation. Instead, these employers generally will only be required to purchase lower-cost State insurance.

Given that small establishments dominate the recreational-vessel industry, very few (if any) would attempt to qualify as a self-insurer. Thus, the Department has focused the cost inquiry on those entities purchasing commercial insurance. The Department has surveyed the cost of purchasing LHWCA insurance and compared it to the cost of various States' workers' compensation insurance. On average, LHWCA insurance is 50–100 percent more expensive than State workers' compensation insurance. Because the premium for both LHWCA and State workers' compensation coverage is calculated as a percentage of the employer's payroll, regardless of payroll size, the cost for both small establishments and larger employers is the same in relative terms.

To the extent the proposed rule defines certain boats as "recreational vessels," the rule will have an impact on whether a particular employer must purchase LHWCA insurance. The Department does not anticipate that the proposed rule will cause many businesses that would otherwise be exempt from the LHWCA to fall under the statute: the rule is designed to clarify the definition so that there is no ambiguity regarding what vessels are recreational, and not to reduce the number of vessels categorized as

[3] *See* U.S. Census Bureau, 2007 Economic Census.

[4] This methodology also holds constant the 1997 allocations of boat building and repair. Furthermore, this method implies that the boat repair establishment proportion of NIACS 81149 increased from 11.9 percent in 1997 to 19.1 percent in 2007 and that the number of all other establishments within NAICS 81149 declined by 39 percent, as the overall sector contracted by 34 percent.

recreational. Moreover, businesses that perform work on both recreational and non-recreational vessels as defined in the proposed rule can reduce their insurance-cost burden by segmenting their workplace into recreational vessel and non-recreational vessel operations, further minimizing any cost implications of the proposed rule.

Identification of Relevant Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rule

The proposed rules adopt the Coast Guard's standards for delineating recreational as opposed to non-recreational vessels. As set forth above, the Department has chosen these standards because their use will eliminate duplicative or overlapping standards, rather than create them. The Department is unaware of any other rules that may duplicate, overlap or conflict with the proposed rule.

Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities, Including Alternatives Considered, Such as: (1) Establishment of Differing Compliance or Reporting Requirements or Timetables That Take Into Account the Resources Available to Small Entities; (2) Clarification, Consolidation, or Simplification of Compliance and Reporting Requirements Under the Rule for Such Small Entities; (3) Use of Performance Rather Than Design Standards; (4) Any Exemption From Coverage of the Rule, or Any Part Thereof, for Such Small Entities

The Department considered not revising the current broad regulatory definition of recreational vessel, *see* 20 CFR 701.301(a)(12)(iii)(F), but rejected that course. Prior to the ARRA amendment, the sixty-five foot length limit provided an outer boundary for the definition; any vessel sixty-five feet or longer was not a recreational vessel for purposes of the section 2(3)(F) exclusion. Without this boundary, the Department believes that both small and large businesses will benefit from a clearer definition of recreational vessel. Boat builders and repairers will be able to structure their operations with greater certainty. A refined definition also diminishes the chances of litigation, resulting in reduced legal costs.

Because the exact number of businesses performing work on each type of vessel described in the proposed rule is unknown, it is correspondingly difficult to determine whether adopting some other definition would impose fewer direct costs on small businesses. The Department considered using a size measure other than length, such as tonnage alone. But the ARRA amendment indicates Congress' preference for defining recreational vessels by the nature of the vessel and its use rather than by its size. Adopting the Coast Guard classifications is consistent with this approach.

The exemption for recreational-vessel workers is a creature of statute. All businesses, small or otherwise, must make determinations regarding their need to procure LHWCA or State workers' compensation insurance. The proposed rule attempts to simplify these determinations by adopting an existing classification scheme well-known to the industry.

Finally, the LHWCA does not allow for imposing differential requirements on small businesses to lower their costs. The cost of compensation payments drive the cost of LHWCA insurance, which is priced by private insurance carriers. Logically, then, lower compensation payments would lead to lower insurance costs. But the statute establishes the amount of compensation an injured worker must be paid, and that amount remains the same for employers of all sizes.

Questions for Comment To Assist Regulatory Flexibility Analysis

The Department invites all interested parties to submit comments regarding the costs and benefits of the proposed rule with particular attention to the effect of the rule on small entities described in the analysis above. The Department is particularly interested in information regarding: (a) The number of businesses performing work on the respective vessel categories under the proposed rule and the proportion of their work devoted to those vessels; (b) the administrative burden, if any, of determining vessel status under the proposed rule; and (c) the existence of other categorization schemes for recreational vessels and whether those alternate schemes are widely understood.

IX. Executive Order 13132 (Federalism)

The Department has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." The proposed rule will not "have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government," if promulgated as a final rule.

X. Executive Order 12988 (Civil Justice Reform)

This proposed rule meets the 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.

XI. Congressional Review Act

This proposed rule is not a "major rule" as defined in the Congressional Review Act (5 U.S.C. 801 *et seq.*). If promulgated as a final rule, this rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects in 20 CFR Part 701

Longshore and harbor workers, Organization and functions (government agencies), Workers' compensation.

For the reasons set forth in the preamble, the Department of Labor proposes to amend 20 CFR Part 701 as follows:

PART 701—GENERAL; ADMINISTERING AGENCY; DEFINITIONS AND USE OF TERMS

1. The authority citation for Part 701 is revised to read as follows:

Authority: 5 U.S.C. 301 and 8171 *et seq.;* 33 U.S.C. 939; 36 *DC* Code 501 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1331; Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR, 1949–1953 Comp., p. 1004, 64 Stat. 1263; Secretary's Order 10–2009; Pub. L. 111–5 § 803, 123 Stat. 115, 187 (2009).

2. Amend § 701.301 as follows:

a. Redesignate paragraph (a)(12) as § 701.302, with its sub-paragraphs redesignated according to the following table:

Former designation in § 701.301	New designation in § 701.302
(a)(12)(i) introductory text.	(a) introductory text.
(a)(12)(i)(A)	(a)(1).
(a)(12)(i)(B)	(a)(2).
(a)(12)(i)(C)	(a)(3).
(a)(12)(ii) introductory text.	(b) introductory text.
(a)(12)(ii)(A)	(b)(1).
(a)(12)(ii)(B)	(b)(2).

Former designation in § 701.301	New designation in § 701.302
(a)(12)(iii) introductory text.	(c) introductory text.
(a)(12)(iii)(A)	(c)(1).
(a)(12)(iii)(B)	(c)(2).
(a)(12)(iii)(C)	(c)(3).
(a)(12)(iii)(D)	(c)(4).
(a)(12)(iii)(E)	(c)(5).
(a)(12)(iii)(F)	(c)(6).

b. Redesignate paragraphs (a)(13) through (a)(16) as (a)(12) through (a)(15); and

c. Revise the undesignated center heading following § 701.203 and immediately preceding § 701.301, and revise the section heading of § 701.301 to read as follows:

Definitions and Use of Terms

§ 701.301 What do certain terms in this subchapter mean?

* * * * *

3. Amend newly designated § 701.302 by adding a section heading, and by revising paragraph (c)(6) to read as follows:

§ 701.302 Who is an employee?

* * * * *

(c) * * *

(6) Individuals employed to build any recreational vessel under sixty-five feet in length, or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel. For purposes of this paragraph, the special rules set forth at §§ 701.501 through 701.505 apply.

4. Add § 701.303 to read as follows:

§ 701.303 Is a worker who engages in both qualifying "maritime employment" and non-qualifying duties in the course of employment an "employee" covered by the LHWCA?

(a) An individual is a covered "employee" if he or she performs at least some work in the course of employment that qualifies as "maritime employment" and that work is not—

(1) Infrequent, episodic, or too minimal to be a regular part of his or her overall employment; or

(2) Otherwise excluded from coverage under § 701.302.

(b) The individual's status as a covered "employee" does not depend on whether he or she was engaged in qualifying maritime employment or non-qualifying work when injured.

5. Add a new undesignated center heading following § 701.401 and add § 701.501 to read as follows:

Special Rules for the Recreational Vessel Exclusion from the Definition of "Employee"

§ 701.501 What is a Recreational Vessel?

(a) *Recreational vessel* means a vessel—

(1) Being manufactured or operated primarily for pleasure; or

(2) Leased, rented, or chartered to another for the latter's pleasure.

(b) Recreational vessel does not include a—

(1) "Passenger vessel" as defined by 46 U.S.C. 2101(22);

(2) "Small passenger vessel" as defined by 46 U.S.C. 2101(35);

(3) "Uninspected passenger vessel" as defined by 46 U.S.C. 2101(42);

(4) Vessel routinely engaged in "commercial service" as defined by 46 U.S.C. 2101(5); or

(5) Vessel that routinely carries "passengers for hire" as defined by 46 U.S.C. 2101(21a).

(c) All subsequent amendments to the statutes referenced in paragraph (b) of this section are incorporated. The statutes referenced in paragraph (b) and all subsequent amendments thereto apply as interpreted by regulations in Title 46 of the Code of Federal Regulations.

6. Add § 701.502 to read as follows:

§ 701.502 What types of work may exclude a recreational-vessel worker from the definition of "employee"?

(a) An individual who works on recreational vessels may be excluded from the definition of "employee" when:

(1) The individual's date of injury is before February 17, 2009, the injury is covered under a State workers' compensation law, and the individual is employed to:

(i) Build any recreational vessel under sixty-five feet in length; or

(ii) Repair any recreational vessel under sixty-five feet in length; or

(iii) Dismantle any recreational vessel under sixty-five feet in length.

(2) The individual's date of injury is on or after February 17, 2009, the injury is covered under a State workers' compensation law, and the individual is employed to:

(i) Build any recreational vessel under sixty-five feet in length; or

(ii) Repair any recreational vessel; or

(iii) Dismantle any recreational vessel to repair it.

(b) In applying paragraph (a) of this section, the following rules apply:

(1) "Length" means a straight line measurement of the overall length from the foremost part of the vessel to the aftmost part of the vessel, measured parallel to the center line. The measurement must be from end to end over the deck, excluding sheer. Bow sprits, bumpkins, rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions are not included in the measurement.

(2) "Repair" means any repair of a vessel including installations, painting and maintenance work. Repair does not include alterations or conversions that render the vessel a non-recreational vessel under § 701.501. For example, a worker who installs equipment on a private yacht to convert it to a passenger-carrying whale-watching vessel is not employed to "repair" a recreational vessel. Repair also does not include alterations or conversions that render a non-recreational vessel recreational under § 701.501.

(3) "Dismantle" means dismantling any part of a vessel to complete a repair but does not include dismantling any part of a vessel to complete alterations or conversions that render the vessel a non-recreational vessel under § 701.501, or render the vessel recreational under § 701.501, or to scrap or dispose of the vessel at the end of the vessel's life.

(c) An individual who performs recreational-vessel work not excluded under paragraph (a) of this section or who engages in other qualifying maritime employment in addition to recreational-vessel work excluded under paragraph (a) of this section will not be excluded from the definition of "employee." (*See* § 701.303).

7. Add § 701.503 to read as follows:

§ 701.503 Did the American Recovery and Reinvestment Act of 2009 Amend the Recreational Vessel Exclusion?

Yes. The amended exclusion was effective February 17, 2009, the effective date of the American Recovery and Reinvestment Act of 2009.

8. Add § 701.504 to read as follows:

§ 701.504 When does the 2009 amended version of the recreational vessel exclusion apply?

(a) *Date of injury.* Whether the amended version applies depends on the date of the injury for which compensation is claimed. The following rules apply to determining the date of injury:

(1) *Traumatic injury.* If the individual claims compensation for a traumatic injury, the date of injury is the date the employee suffered harm. For example, if the individual injures an arm or leg in the course of his or her employment, the date of injury is the date on which the individual was hurt.

(2) *Occupational disease or infection.* Occupational illnesses and infections

are generally caused by exposure to a harmful substance or condition. If the individual claims compensation for an occupational illness or infection, the date of injury is the date the illness becomes "manifest" to the individual. The injury is "manifest" when the individual learns, or reasonably should have learned, that he or she is suffering from the illness, that the illness is related to his or her work with the responsible employer, and that he or she is disabled as a result of the illness.

(3) *Hearing loss.* If the individual claims compensation for hearing loss, the date of injury is the date the individual receives an audiogram with an accompanying report which indicates the individual has suffered a loss of hearing that is related to employment.

(4) *Death-benefit claims.* If the individual claims compensation for an employee's death, the date of injury is the date of the employee's death, even if his or her death was the result of an event or incident that happened on an earlier date.

(b) If the date of injury is before February 17, 2009, the individual's entitlement is governed by section 2(3)(F) as it existed prior to the 2009 amendment.

(c) If the date of injury is on or after February 17, 2009, the employee's eligibility is governed by the 2009 amendment to section 2(3)(F).

9. Add § 701.505 to read as follows:

§ 701.505 May an employer stop paying benefits awarded prior to the effective date of the recreational vessel exclusion amendment if the employee would now fall within the exclusion?

No. If an individual was awarded compensation for an injury occurring before February 17, 2009, the employer must still pay all benefits awarded, including disability compensation and medical benefits, even if the employee would be excluded from coverage under the amended exclusion.

Signed at Washington, DC, this 9th day of August 2010.

Shelby Hallmark,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2010–20080 Filed 8–16–10; 8:45 am]

BILLING CODE 4510–CF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2010–0529; FRL–9189–9]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Transportation Conformity Consultation Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Indiana State Implementation Plan (SIP) submitted on June 4, 2010. This revision consists of transportation conformity criteria and procedures related to interagency consultation and enforceability of certain transportation related control measures and mitigation measures. This approval will meet a requirement of the Clean Air Act and Transportation Conformity regulations.

DATES: Comments must be received on or before September 16, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2010–0529, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: bortzer.Jay@epa.gov.*
3. *Fax:* (312) 692–2054.
4. *Mail:* Jay Elmer Bortzer, Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Jay Elmer Bortzer, Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656, *morris.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: August 5, 2010.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 2010–20183 Filed 8–16–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 73

RIN 0920–AA34

Public Health Security and Bioterrorism Preparedness and Response Act of 2002: Biennial Review and Republication of the Select Agent and Toxin List

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Extension of public comment period.

SUMMARY: On July 21, 2010, the Department of Health and Human Services (HHS) published an Advanced Notice of Proposed Rulemaking (ANPRM) requesting public comment on the current HHS list of select agents and toxins. This document is extending the comment period for that ANPRM in order to align the comment period with the comment period of a related document published by the Animal and Plant Health Inspection Service (APHIS)

in the Department of Agriculture (USDA).

DATES: Written comments in response to the Advanced Notice of Proposed Rulemaking published on July 21, 2010 (75 FR 42363) must be received on or before August 30, 2010. Comments received after August 30, 2010 will be considered to the extent possible.

ADDRESSES: Comments in response to the Advanced Notice of Proposed Rulemaking (75 FR 42363) should be marked "Comments on the changes to the list of select agents and toxins" and mailed to: Centers for Disease Control and Prevention, Division of Select Agents and Toxins, 1600 Clifton Road, NE., MS A–46, Atlanta, Georgia 30333. Comments may be e-mailed to: *SAPcomments@cdc.gov.*

FOR FURTHER INFORMATION CONTACT: Robbin Weyant, Director, Division of Select Agents and Toxins, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS A–46, Atlanta, Georgia 30333. *Telephone:* (404) 718–2000.

SUPPLEMENTARY INFORMATION: On July 21, 2010, the Department of Health and Human Services (HHS) published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (75 FR 42363) requesting public comment on the current HHS list of select agents and toxins. The purpose of the ANPRM is to seek public comment on (1) the appropriateness of the current HHS list of select agents and toxins, (2) whether there are other agents or toxins that should be added to the HHS list, (3) whether agents or toxins currently on the HHS list should be deleted from the list, (4) whether the HHS select agent list should be tiered based on the relative bioterrorism risk of each agent or toxin, and (5) whether the security requirements for agents in the highest tier should be further stratified based on type of use or other factors. The comment period was scheduled to end on August 22, 2010.

On July 29, 2010, the Animal and Plant Health Inspection Service (APHIS) within the U.S. Department of Agriculture (USDA) published an Advanced Notice of Proposed Rulemaking (ANPRM in the **Federal Register** (75 FR 44724) requesting public comment on the USDA/APHIS list of select agents and toxins. The comment period for the USDA/APHIS ANPRM is scheduled to close on August 30, 2010. Since the select agents and toxins listed in § 73.4 (Overlap select agents and toxins) are those regulated by both HHS/CDC and USDA/APHIS, HHS/CDC is extending the comment period for its ANPRM to August 30, 2010 to coincide with that of USDA/APHIS.

After the close of the comment period, we will carefully consider all comments received and plan to publish another notice in the **Federal Register** either proposing that the select agent and toxin list remain the same, or that specific biological agents or toxins be added to or deleted from the list. If appropriate, we will also propose any changes to the Select Agent regulations (42 CFR part 73) to implement a tiering and/or stratification schema along with any corresponding amendments to the current security requirements in the Select Agent regulations that might be required for higher-risk agents and toxins.

Dated: August 10, 2010.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2010–20169 Filed 8–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 4

[FAR Case 2009–023; Docket 2010–0094; Sequence 1]

RIN 9000–AL70

Federal Acquisition Regulation; Unique Procurement Instrument Identifiers (PIID)

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to standardize use of Unique Procurement Instrument Identifiers (PIID) throughout the Government. This case defines the requirement for agency unique procurement instrument identifiers and extends the requirement for using PIIDs to all solicitations, contracts, and related procurement instruments across the Federal Government.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before October 18, 2010 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2009–023 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2009–023" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "FAR Case 2009–023". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2009–023" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, *Attn:* Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite, FAR Case 2009–023, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at (202) 501–2364 for clarification of content. Please cite FAR case 2009–023. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

In accordance with FAR 4.605(a), agencies are required to have in place a process that ensures that each PIID reported to the Federal Procurement Data System (FPDS) is unique, Governmentwide, and will remain so for at least 20 years from the date of contract award. Additionally, FAR 4.605(a) requires the FPDS Program Management Office to maintain a registry of agency unique identifiers on the FPDS Web site, at *https://www.fpds.gov,* that consists of alpha characters in the first positions to indicate the agency, followed by alphanumeric characters identifying bureaus, offices, or other administrative subdivisions. However, FAR 4.605(a) does not clearly articulate the specific policies and procedures necessary to ensure standardization of contract data beyond FPDS, thereby causing the potential for duplication of contract data

across procurement, finance, and related posting and reporting systems.

Additionally, the lack of specific policies and procedures necessary to ensure standardization of unique PIIDs identified in contract data causes numerous issues with our Governmentwide systems *i.e.,* procurement and finance, and for related posting and reporting systems, resulting in duplication, errors, and discrepancies. This problem increases for contract vehicles that are used by more than one agency. Further, the lack of consistent agency policies and procedures for PIIDs subjects users of contract data, including the Federal Government, contractors, and the public, to potential duplicate, overlapping, or conflicting information from the different Federal agencies. These issues pre-date the reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) and American Recovery and Reinvestment Act (Recovery Act), but the need to standardize is exacerbated by the Acts' reporting requirements.

Without a consistent means for distinguishing PIIDs for each agency to ensure uniqueness beyond FPDS reporting, it is difficult to report to the level of transparency required by FFATA and the Recovery Act or to transmit contract award information across a myriad of procurement and finance systems. The additional reporting and transparency requirements that are now required, as well as the audits that are now being conducted related to the data reported, highlight the need for unique PIIDs beyond FPDS reporting to eliminate the potential for error, duplication and miscommunication.

Expanding the requirement for PIIDs beyond FPDS reporting will enhance and ensure that agencies understand the need to have unique PIIDs and identify them in contract data to combat the potential issues addressed above. Additionally, clarifying and expanding the requirement for PIIDs in the FAR, to include solicitations, contracts, and related instruments will allow agencies to establish the requirement with their contract writing system.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it proposes no new requirements on industry, and only provides internal Government policy and procedures. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. The Councils invite comments from small business concerns and other interested parties.

The Councils will consider comments from small entities concerning the affected FAR Part 4 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2009–023), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Part 4

Government procurement.

Dated: August 12, 2010.

Edward Loeb,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 4 as set forth below:

PART 4—ADMINISTRATIVE MATTERS

1. The authority citation for 48 CFR part 4 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Add section 4.001 to read as follows:

4.001 Definitions.

As used in this part—

Procurement Instrument Identifier (PIID) means the Government-unique identifier for each solicitation, contract, agreement, amendment, modification, or order. For example, an agency may use as its PIID for procurement actions, such as delivery and task orders or basic ordering agreements, the order or agreement number in conjunction with the contract number (*see* 4.1602).

Supplementary procurement instrument identifier means the non-unique identifier for a procurement action that is used in conjunction with the Government-unique identifier. For example, an agency may use as its PIID for an amended solicitation, the Government-unique identifier for a solicitation number (*e.g.,* N0002309R0009) in conjunction with a non-unique amendment number (*e.g.,* 001). The non-unique amendment number represents the supplementary PIID.

3. Amend section 4.605 by revising paragraph (a) to read as follows:

4.605 Procedures.

(a) *Procurement Instrument Identifier (PIID).* Agencies shall have in place a process that ensures that each PIID reported to FPDS is unique Governmentwide, for all contracts, blanket purchase agreements, basic agreements, basic ordering agreements, amendments, modifications, or orders in accordance with section 4.1601, and will remain so for at least 20 years from the date of contract award. Other pertinent PIID instructions for FPDS reporting can be found at *https://www.fpds.gov.*

* * * * *

Subpart 4.16—Unique Procurement Instrument Identifiers

4. Add Subpart 4.16 to read as follows:

Sec.

Subpart 4.16—Unique Procurement Instrument Identifiers

4.1600 Scope of subpart.

This subpart prescribes policies and procedures for assigning unique procurement instrument identifiers (PIID) for each solicitation, contract, agreement, amendment, modification, or order and related procurement instrument.

4.1601 Policy.

(a) *Procurement Instrument Identifier (PIID).* Agencies shall have in place a process that ensures that each PIID used to identify a solicitation or contract action is unique Governmentwide, and will remain so for at least 20 years from the date of contract award.

(b) Agencies shall submit their proposed identifier format to the General Services Administration's Integrated Acquisition Environment Program Office, which maintains a registry of the agency-unique identifiers schemes.

(c) The PIID shall consist of alpha characters in the first positions to indicate the agency, followed by alpha-numeric characters according to agency procedures.

(d) Agencies shall use the PIID to identify all solicitations and contract actions and shall include it as the

identifier for all contract actions shared with supporting procurement, finance, logistics, and reporting systems (*e.g.,* Federal Procurement Data System, Past Performance Information Reporting System) to enable consistency, traceability, and transparency.

(e) Agencies shall retain the PIID unchanged for the life of the solicitation, contract, blanket purchase agreement, basic agreement, basic ordering agreement, or order unless the conditions in paragraph (f) of this section exist.

(f) If continued use of a PIID is not possible or is not in the Government's best interest solely for administrative reasons (*e.g.,* for lengthy major systems contracts with multiple options or implementations of new agency contracting systems), the contracting officer may assign a new PIID by issuing a modification.

4.1602 Identifying the PIID and supplementary PIID.

(a) *Identifying the PIID in solicitation and contract award documentation (including forms and electronic generated formats).* Agencies shall include all PIIDs for all related procurement actions as identified in paragraphs (a)(1) through (a)(5) of this section.

(1) *Solicitation and amendments.* Identify the PIID for all solicitations. For amendments, identify a supplementary PIID, in accordance with agency procedures, in conjunction with the PIID for the solicitation.

(2) *Contracts and purchase orders.* Identify the PIID for contracts and purchase orders.

(3) *Delivery and task orders.* For delivery and task orders placed by an agency under a contract (*e.g.,* indefinite-delivery indefinite-quantity (IDIQ) contracts, multi-agency contracts (MAC), Governmentwide acquisition contracts (GWACs) or Multiple Award Schedule (MAS) contracts), identify the PIID for the delivery and task order and the PIID for the contract.

(4) *Blanket purchase agreements and basic ordering agreements.* Identify the PIID for blanket purchase agreements issued in accordance with FAR 13.303, and for basic agreements and basic ordering agreements issued in accordance with Subpart 16.7. For blanket purchase agreements issued in accordance with Subpart 8.4 under a MAS contract, identify the PIID for the blanket purchase agreement and the PIID for the MAS contract.

(i) *Orders.* For orders against basic ordering agreements or blanket purchase agreements issued in accordance with FAR 13.303, identify the PIID for the order and the PIID for the blanket purchase agreement or basic ordering agreement.

(ii) *Orders under Subpart 8.4.* For orders against a blanket purchase agreement established under a MAS contract, identify the PIID for the order, the PIID for the blanket purchase agreement, and the PIID for the MAS contract.

(5) *Modifications.* For modifications to actions described in paragraphs (a)(2) through (a)(4) of this section, and in accordance with agency procedures, identify a supplementary PIID for the modification in conjunction with the PIID for the contract, order, or agreement being modified.

(b) *Placement of the PIID on forms.* When the form (including electronic generated format) does not provide spaces or fields for the PIID or supplementary PIID required in paragraph (a) of this section; identify the PIID in accordance with agency procedures.

(c) *Additional agency specific identification information.* If agency procedures require additional identification information in solicitations, contracts, or other related procurement instruments for administrative purposes, identify it in such a manner so as to separate it clearly from the PIID.

[FR Doc. 2010–20282 Filed 8–16–10; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA 2010–0098]

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 2008 including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 2008. The preliminary theft data indicate that the vehicle theft rate for CY/MY 2008 vehicles (1.69 thefts per thousand vehicles) decreased by 8.65 percent from the theft rate for CY/MY 2007 vehicles (1.85 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before October 18, 2010.

ADDRESSES: You may submit comments [identified by Docket No. NHTSA–2010–0098 by any of the following methods:

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

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

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

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49

CFR part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

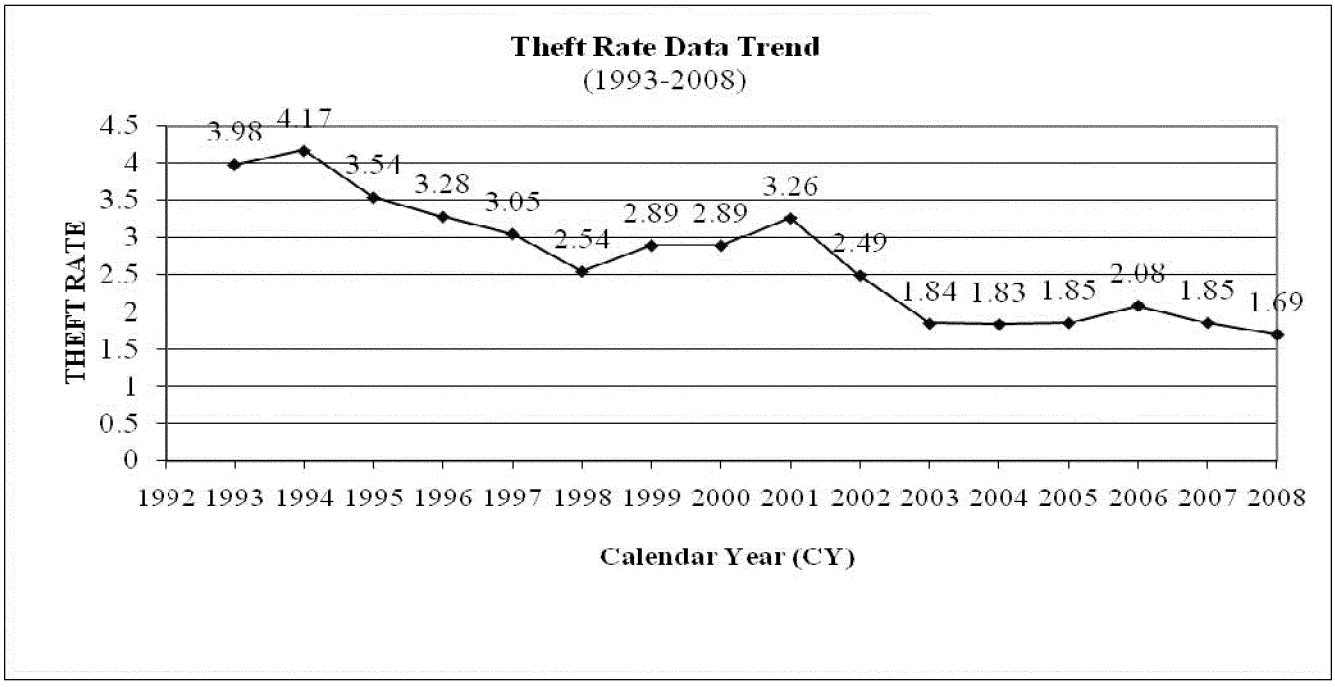
The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 2008 the most recent calendar year for which data are available.

In calculating the 2008 theft rates, NHTSA followed the same procedures it has used since publication of the 1983/1984 theft rate data (50 FR 46669, November 12, 1985). The 2008 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2008 vehicles of that line stolen during calendar year 2008 by the total number of vehicles in that line manufactured for MY 2008, as reported to the Environmental Protection Agency (EPA). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from approximately 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The preliminary 2008 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2007 (for 2007 theft data, *see* 75 FR 47720, August 9, 2010). The preliminary theft rate for MY 2008 passenger vehicles stolen in calendar year 2008 decreased to 1.69 thefts per thousand vehicles produced, a decrease of 8.65 percent from the rate of 1.85 thefts per thousand vehicles experienced by MY 2007 vehicles in CY 2007. For MY 2008 vehicles, out of a total of 239 vehicle lines, 18 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991 (*see* 59 FR 12400, March 16, 1994). Of the 18 vehicle lines with a theft rate higher than 3.5826, 14 are passenger car lines, four are multipurpose passenger vehicle lines, and none are light-duty truck lines.

The agency believes that the theft rate reduction is a result of several factors, including vehicle parts marking; the increased use of standard antitheft devices (*i.e.,* as immobilizers); advances in electronic technology and other theft prevention methods (*i.e.*, remote engine disablers, license tag readers; improved door locks); increased and improved prosecution efforts by law enforcement organizations; and, increased public awareness (*i.e.,* precautionary measures for vehicle owners) which may have contributed to the overall reduction in vehicle thefts. The preliminary MY 2008 theft rate reduction is consistent with the general decreasing trend of theft rates over the past 16 years as indicated by Figure 1.

Figure 1: Theft Rate Data Trend (1993-2008)



Theft rate per thousand vehicles produced

In Table I, NHTSA has tentatively ranked each of the MY 2008 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR 553.21). Attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Dockets. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

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

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2008 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2008

	Manufacturer	Make/model (line)	Thefts 2008	Production (Mfr's) 2008	2008 Theft rate (per 1,000 vehicles produced)
1	CHRYSLER	DODGE MAGNUM	208	15,319	13.5779
2	GENERAL MOTORS	PONTIAC GRAND PRIX	436	64,268	6.7841
3	CHRYSLER	DODGE CHARGER	728	110,895	6.5648
4	MITSUBISHI	GALANT	77	11,986	6.4242
5	CHRYSLER	300	483	76,295	6.3307
6	HYUNDAI	AZERA	62	11,462	5.4092
7	CHRYSLER	SEBRING	260	51,096	5.0885
8	CHRYSLER	PACIFICA	83	16,384	5.0659
9	CHRYSLER	PT CRUISER CONVERTIBLE	9	1,830	4.9180
10	HYUNDAI	SONATA	429	87,456	4.9053
11	GENERAL MOTORS	CADILLAC STS	82	17,517	4.6812
12	CHRYSLER	DODGE AVENGER	641	137,543	4.6604
13	NISSAN	PATHFINDER	115	25,262	4.5523
14	CHRYSLER	DODGE CALIBER	387	91,288	4.2393
15	MAZDA	6	182	44,114	4.1257
16	CHRYSLER	PT CRUISER	254	65,485	3.8788
17	CHRYSLER	SEBRING CONVERTIBLE	177	45,930	3.8537
18	HONDA	S2000	10	2,606	3.8373
19	GENERAL MOTORS	PONTIAC G6	549	154,317	3.5576
20	LAMBORGHINI	MURCIELAGO	1	288	3.4722
21	NISSAN	INFINITI FX35	52	15,179	3.4258
22	NISSAN	MAXIMA	131	38,602	3.3936
23	ISUZU	I SERIES PICKUP	10	2,977	3.3591
24	MITSUBISHI	ECLIPSE	70	21,046	3.3260
25	NISSAN	350Z	41	12,373	3.3137
26	BMW	M6	5	1,547	3.2321
27	SUZUKI	XL7	78	24,555	3.1765
28	ASTON MARTIN	DB9	1	323	3.0960
29	FORD MOTOR CO.	MUSTANG	287	94,476	3.0378
30	GENERAL MOTORS	CHEVROLET COBALT	535	176,456	3.0319
31	KIA	SPECTRA	181	60,253	3.0040
32	GENERAL MOTORS	CHEVROLET IMPALA	923	320,116	2.8833
33	SUZUKI	FORENZA	61	21,358	2.8561
34	ISUZU	ASCENDER	3	1,063	2.8222
35	VOLVO	S40	33	11,753	2.8078
36	BMW	7	38	13,599	2.7943
37	CHRYSLER	DODGE NITRO	135	48,377	2.7906
38	GENERAL MOTORS	CHEVROLET MALIBU	423	155,433	2.7214
39	KIA	RIO	92	35,014	2.6275
40	AUDI	AUDI S8/S8 QUATTRO	1	385	2.5974
41	GENERAL MOTORS	PONTIAC G5	52	20,185	2.5762
42	GENERAL MOTORS	CHEVROLET AVEO	139	56,070	2.4790
43	KIA	OPTIMA	113	47,198	2.3942
44	GENERAL MOTORS	CADILLAC DTS	97	40,809	2.3769
45	VOLVO	S60	32	13,592	2.3543
46	GENERAL MOTORS	CHEVROLET HHR	219	99,176	2.2082
47	GENERAL MOTORS	CHEVROLET TRAILBLAZER	215	100,805	2.1328

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2008 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2008—Continued

	Manufacturer	Make/model (line)	Thefts 2008	Production (Mfr's) 2008	2008 Theft rate (per 1,000 vehicles produced)
48	TOYOTA	SCION TC	114	54,835	2.0790
49	SUZUKI	RENO	10	4,840	2.0661
50	MERCEDES–BENZ	CL–CLASS	22	10,679	2.0601
51	KIA	RONDO	47	23,441	2.0050
52	CHRYSLER	JEEP GRAND CHEROKEE	123	62,654	1.9632
53	JAGUAR LAND ROVER	XK	3	1,542	1.9455
54	TOYOTA	COROLLA	374	194,251	1.9253
55	NISSAN	SENTRA	230	119,932	1.9178
56	FORD MOTOR CO.	FUSION	259	137,791	1.8797
57	TOYOTA	4RUNNER	110	59,563	1.8468
58	TOYOTA	SCION XB	111	60,553	1.8331
59	GENERAL MOTORS	PONTIAC G8	22	12,035	1.8280
60	VOLKSWAGEN	R32	9	4,999	1.8004
61	MITSUBISHI	ENDEAVOR	17	9,583	1.7740
62	NISSAN	XTERRA	63	36,035	1.7483
63	TOYOTA	AVALON	107	61,851	1.7300
64	FORD MOTOR CO.	CROWN VICTORIA	16	9,299	1.7206
65	GENERAL MOTORS	CHEVROLET CORVETTE	56	32,882	1.7031
66	JAGUAR LAND ROVER	S–TYPE	3	1,779	1.6863
67	NISSAN	ALTIMA	506	304,132	1.6638
68	GENERAL MOTORS	PONTIAC TORRENT	47	28,370	1.6567
69	MAZDA	5	27	16,389	1.6474
70	BENTLEY MOTORS	CONTINENTAL	5	3,069	1.6292
71	CHRYSLER	JEEP PATRIOT	99	61,495	1.6099
72	MITSUBISHI	LANCER	70	43,668	1.6030
73	NISSAN	VERSA	122	76,223	1.6006
74	MAZDA	TRIBUTE	38	23,834	1.5944
75	VOLKSWAGEN	JETTA/GLI	138	87,219	1.5822
76	FORD MOTOR CO.	FOCUS	284	180,249	1.5756
77	NISSAN	INFINITI M35/M45	26	16,522	1.5737
78	MAZDA	3	199	129,061	1.5419
79	GENERAL MOTORS	PONTIAC VIBE	31	20,317	1.5258
80	TOYOTA	CAMRY/SOLARA	390	257,638	1.5138
81	FORD MOTOR CO.	MERCURY GRAND MARQUIS	66	44,071	1.4976
82	AUDI	AUDI A3/A3 QUATTRO	8	5,378	1.4875
83	NISSAN	FRONTIER PICKUP	70	47,215	1.4826
84	HYUNDAI	ACCENT	76	51,562	1.4740
85	HYUNDAI	ELANTRA	160	109,498	1.4612
86	AUDI	AUDI A6/A6 QUATTRO/S6/S6 AVANT	24	16,651	1.4414
87	KIA	SPORTAGE	58	40,669	1.4261
88	TOYOTA	LEXUS SC	4	2,807	1.4250
89	GENERAL MOTORS	PONTIAC SOLSTICE	20	14,080	1.4205
90	GENERAL MOTORS	SATURN AURA	85	60,715	1.4000
91	HYUNDAI	SANTA FE	107	76,765	1.3939
92	CHRYSLER	JEEP COMPASS	36	26,147	1.3768
93	GENERAL MOTORS	CADILLAC XLR	2	1,468	1.3624
94	MAZDA	CX–7	45	33,134	1.3581
95	NISSAN	INFINITI G37	39	29,182	1.3364
96	FORD MOTOR CO.	EDGE	170	128,607	1.3219
97	FORD MOTOR CO.	TAURUS	107	81,095	1.3194
98	VOLKSWAGEN	GOLF/RABBIT/GTI	47	35,696	1.3167
99	GENERAL MOTORS	CHEVROLET UPLANDER VAN	93	73,084	1.2725
100	GENERAL MOTORS	BUICK LACROSSE/ALLURE	53	41,961	1.2631
101	FORD MOTOR CO.	MERCURY MILAN	41	32,608	1.2574
102	FORD MOTOR CO.	MERCURY SABLE	33	26,392	1.2504
103	MERCEDES–BENZ	S–CLASS	33	26,436	1.2483
104	TOYOTA	YARIS	147	120,841	1.2165
105	SUZUKI	SX4	51	42,522	1.1994
106	TOYOTA	SCION XD	39	32,737	1.1913
107	JAGUAR LAND ROVER	XJ8/XJ8L	3	2,556	1.1737
108	KIA	SEDONA VAN	37	31,800	1.1635
109	GENERAL MOTORS	GMC ENVOY	36	30,956	1.1629
110	GENERAL MOTORS	CADILLAC CTS	73	62,943	1.1598
111	AUDI	AUDI A4/A5//A4/A5 QUATTRO//S4/S4 AVANT	53	46,237	1.1463
112	FORD MOTOR CO.	LINCOLN TOWN CAR	14	12,300	1.1382
113	MERCEDES–BENZ	CLK–CLASS	22	19,420	1.1329
114	BMW	M5	3	2,666	1.1253

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2008 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2008—Continued

	Manufacturer	Make/model (line)	Thefts 2008	Production (Mfr's) 2008	2008 Theft rate (per 1,000 vehicles produced)
115	CHRYSLER	JEEP LIBERTY	99	90,530	1.0936
116	GENERAL MOTORS	BUICK LUCERNE	72	66,117	1.0890
117	TOYOTA	TACOMA PICKUP	156	146,312	1.0662
118	KIA	SORENTO	42	39,679	1.0585
119	SUZUKI	VITARA/GRAND VITARA	19	17,996	1.0558
120	HONDA	ACCORD	401	384,257	1.0436
121	HONDA	CIVIC	368	355,443	1.0353
122	TOYOTA	HIGHLANDER	139	137,668	1.0097
123	GENERAL MOTORS	SATURN SKY	13	12,979	1.0016
124	NISSAN	QUEST VAN	21	21,348	0.9837
125	CHRYSLER	JEEP WRANGLER	118	120,710	0.9775
126	HYUNDAI	TIBURON	10	10,315	0.9695
127	FORD MOTOR CO.	ESCAPE	239	249,322	0.9586
128	ASTON MARTIN	VANTAGE	1	1,047	0.9551
129	HONDA	ACURA 3.2 TL	54	56,720	0.9520
130	TOYOTA	LEXUS IS	54	57,931	0.9321
131	HONDA	ELEMENT	35	37,980	0.9215
132	TOYOTA	RAV4	150	164,331	0.9128
133	GENERAL MOTORS	CHEVROLET EQUINOX	82	90,033	0.9108
134	TOYOTA	LEXUS GS	18	20,030	0.8987
135	HONDA	ACURA RDX	19	21,271	0.8932
136	VOLKSWAGEN	NEW BEETLE	25	28,003	0.8928
137	SUBARU	FORESTER	27	30,406	0.8880
138	FORD MOTOR CO.	TAURUS X	37	42,101	0.8788
139	TOYOTA	LEXUS LS	25	28,875	0.8658
140	HONDA	ACURA TSX	19	21,996	0.8638
141	AUDI	AUDI A8/A8 QUATTRO	2	2,359	0.8478
142	SUBARU	LEGACY	22	26,288	0.8369
143	MASERATI	QUATTROPORTE	1	1,196	0.8361
144	VOLKSWAGEN	PASSAT	29	35,376	0.8198
145	PORSCHE	CAYMAN	4	4,901	0.8162
146	MERCEDES–BENZ	C–CLASS	64	78,747	0.8127
147	TOYOTA	FJ CRUISER	34	41,931	0.8109
148	MERCEDES–BENZ	SL–CLASS	3	3,708	0.8091
149	PORSCHE	911	8	9,941	0.8047
150	JAGUAR LAND ROVER	XKR	1	1,265	0.7905
151	HONDA	ACURA 3.5 RL	4	5,132	0.7794
152	VOLVO	V70	3	3,862	0.7768
153	GENERAL MOTORS	SATURN VUE	84	108,682	0.7729
154	VOLVO	XC90	23	30,004	0.7666
155	TOYOTA	LEXUS RX	88	115,527	0.7617
156	JAGUAR LAND ROVER	LAND ROVER LR2	11	14,659	0.7504
157	BMW	3	91	121,356	0.7499
158	AUDI	AUDI S5/S5 QUATTRO	1	1,340	0.7463
159	FORD MOTOR CO.	RANGER PICKUP	63	85,052	0.7407
160	FORD MOTOR CO.	MERCURY MARINER	39	52,931	0.7368
161	VOLKSWAGEN	EOS	10	13,815	0.7239
162	CHRYSLER	DODGE VIPER	1	1,382	0.7236
163	GENERAL MOTORS	GMC CANYON PICKUP	13	18,049	0.7203
164	HYUNDAI	TUCSON	16	22,488	0.7115
165	NISSAN	INFINITI G35	39	56,155	0.6945
166	VOLVO	C70	5	7,220	0.6925
167	GENERAL MOTORS	CHEVROLET COLORADO PICKUP	46	66,677	0.6899
168	BMW	Z4/M	4	5,880	0.6803
169	NISSAN	ROGUE	52	78,079	0.6660
170	BMW	6	4	6,052	0.6609
171	TOYOTA	SIENNA VAN	85	129,208	0.6579
172	BMW	5	52	79,395	0.6550
173	JAGUAR LAND ROVER	VANDEN PLAS/SUPER V8	1	1,533	0.6523
174	SUBARU	IMPREZA	38	59,340	0.6404
175	BMW	M3	5	7,854	0.6366
176	MERCEDES–BENZ	E–CLASS	27	42,951	0.6286
177	HONDA	PILOT	55	88,713	0.6200
178	CHRYSLER	CROSSFIRE	1	1,648	0.6068
179	HONDA	FIT	45	74,486	0.6041
180	HYUNDAI	VERACRUZ	8	13,264	0.6031
181	FORD MOTOR CO.	LINCOLN MKX	22	36,884	0.5965

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2008 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2008—Continued

	Manufacturer	Make/model (line)	Thefts 2008	Production (Mfr's) 2008	2008 Theft rate (per 1,000 vehicles produced)
182	FORD MOTOR CO.	LINCOLN MKZ	19	32,457	0.5854
183	MAZDA	CX–9	20	36,033	0.5550
184	VOLVO	V50	1	1,875	0.5333
185	VOLVO	C30	3	5,865	0.5115
186	AUDI	AUDI TT	4	7,924	0.5048
187	TOYOTA	PRIUS	84	171,762	0.4890
188	HYUNDAI	ENTOURAGE VAN	4	8,217	0.4868
189	SUBARU	B9 TRIBECA	9	18,805	0.4786
190	BMW	X3	10	21,033	0.4754
191	MAZDA	RX–8	1	2,106	0.4748
192	MERCEDES–BENZ	SLK–CLASS	2	4,379	0.4567
193	HONDA	ACURA MDX	26	57,380	0.4531
194	SUBARU	OUTBACK	28	63,741	0.4393
195	VOLVO	S80	5	11,433	0.4373
196	SAAB	9–3	8	18,364	0.4356
197	MITSUBISHI	OUTLANDER	6	14,445	0.4154
198	HONDA	CR–V	82	228,315	0.3592
199	TOYOTA	LEXUS ES	27	79,585	0.3393
200	KIA	AMANTI	1	3,398	0.2943
201	BMW	MINI COOPER	11	40,950	0.2686
202	NISSAN	INFINITI EX35	4	15,202	0.2631
203	MAZDA	MX–5 MIATA	4	16,044	0.2493
204	VOLVO	XC70	3	12,793	0.2345
205	HONDA	ODYSSEY VAN	28	135,622	0.2065
206	MERCEDES–BENZ	SMART FORTWO	4	21,627	0.1850
207	GENERAL MOTORS	SATURN ASTRA	3	17,912	0.1675
208	CHRYSLER	DODGE CHALLENGER	1	6,411	0.1560
209	BMW	1	1	11,887	0.0841
210	ALFA ROMEO	8C	0	84	0.0000
211	AUDI	AUDI R8	0	572	0.0000
212	AUDI	AUDI RS4	0	1,172	0.0000
213	BENTLEY MOTORS	ARNAGE	0	63	0.0000
214	BENTLEY MOTORS	AZURE	0	127	0.0000
215	BMW	B7	0	232	0.0000
216	BUGATTI	VEYRON	0	18	0.0000
217	FERRARI	141	0	324	0.0000
218	FERRARI	430	0	1,032	0.0000
219	FERRARI	612 SCAGLIETTI	0	94	0.0000
220	FORD MOTOR CO.	SHELBY GT	0	3,244	0.0000
221	GENERAL MOTORS	CADILLAC FUNERAL COACH/HEARSE	0	967	0.0000
222	GENERAL MOTORS	CADILLAC LIMOUSINE	0	664	0.0000
223	JAGUAR LAND ROVER	XJR	0	114	0.0000
224	JAGUAR LAND ROVER	X–TYPE	0	807	0.0000
225	LAMBORGHINI	GALLARDO	0	792	0.0000
226	LOTUS	ELISE	0	129	0.0000
227	LOTUS	EXIGE	0	123	0.0000
228	MASERATI	GRANTURISMO	0	1,465	0.0000
229	MAZDA	B SERIES PICKUP	0	1,884	0.0000
230	MERCEDES–BENZ	MAYBACH 57	0	76	0.0000
231	MERCEDES–BENZ	MAYBACH 62	0	67	0.0000
232	MERCEDES–BENZ	SLR–CLASS	0	105	0.0000
233	NISSAN	INFINITI FX45	0	395	0.0000
234	PORSCHE	BOXSTER	0	4,067	0.0000
235	ROLLS ROYCE	PHANTOM	0	378	0.0000
236	ROUSH PERFORMANCE	RPP MUSTANG	0	1,491	0.0000
237	SAAB	9–5	0	3,336	0.0000
238	SALEEN	S281/H302	0	370	0.0000
239	SPYKER	C8	0	6	0.0000

Issued on: August 12, 2010.

Joseph S. Carra,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2010–20316 Filed 8–16–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R6-ES-2010-0058]
[MO 92210-0-0008]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List Brian Head Mountainsnail as Endangered or Threatened with Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90–day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90–day finding on a petition to list the Brian Head mountainsnail (*Oreohelix parawanensis*) as endangered or threatened under the Endangered Species Act of 1973 (Act), as amended. Based on our review, we find that the petition does not present substantial information indicating that listing the species may be warranted. However, we ask the public to submit to us any new information that becomes available concerning the status of, or threats to, the mountainsnail or its habitat at any time. This information will help us monitor and encourage the conservation of this species.

DATES: The finding announced in this document was made on August 17, 2010. You may submit new information concerning this species for our consideration at any time.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov at Docket No. FWS-R6-ES-2010-0058. Supporting* information we used in preparing this finding is available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Mountain-Prairie Regional Ecological Services Office, P.O. Box 25486, Denver Federal Center, Denver, CO 80255. Please submit any new information, materials, comments, or questions concerning this species or this finding to the above postal address.

FOR FURTHER INFORMATION CONTACT: Ann Carlson, Mountain-Prairie Regional Ecological Services Office (see **ADDRESSES**); telephone 303-236-4264. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that a petitioned action may be warranted. We are to base this finding on information provided in the petition and any information we may have in our files. To the maximum extent practicable, we are to make the finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for "substantial information," as defined in the Code of Federal Regulations at 50 CFR 424.14(b), with regard to a 90–day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted." If we find that substantial information was presented, we are required to promptly commence a status review of the species, which we subsequently summarize in our 12–month finding.

In considering what factors might constitute threats to a species, we must look beyond the exposure of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the subsequent status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as endangered or threatened as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

Petition History

On July 30, 2007, we received a petition dated July 24, 2007, from Forest Guardians (now WildEarth Guardians) requesting that the Service: (1) Consider for listing all full species in our Mountain Prairie Region ranked as G1 or G1G2 by the organization NatureServe, except those that are currently listed, proposed for listing, or candidates for listing (a total of 206 species); and (2) list each species we considered as either endangered or threatened. The petition incorporated all analysis, references, and documentation provided by NatureServe in its online database at *http://www.natureserve.org/ into the petition. However, it should be noted that no other* documentation on species was provided in the petition, and the information on most species in the NatureServe database is not extensive, because the focus is on rare species. Subsequent to the petition, NatureServe included a disclaimer on its database indicating that: "The purpose of the conservation status ranks developed by NatureServe is to assess the relative risk facing a species and does not imply that any specific action or legal status is needed to assure its survival...Assessment by NatureServe of any species...does not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act...".

The petition clearly identified itself as a petition and included the identification information required at 50 CFR 424.14(a). We sent a letter to the petitioners dated August 24, 2007, acknowledging receipt of the petition and stating that, based on preliminary review, we found no compelling evidence to support an emergency listing for any of the species covered by the petition.

On June 18, 2008, we received a petition from WildEarth Guardians dated June 12, 2008, to emergency list 32 species including the Brian Head mountainsnail under the Administrative Procedure Act (APA) (5 U.S.C. Subchapter II) and the Act. However, emergency listing a species is not a petitionable action under the APA or the Act, and is treated solely as a petition to list a species under the Act. Of those 32 species, 11 had been included in the July 24, 2007, petition for listing on a non-emergency basis. In a letter dated July 25, 2008, we stated that the information provided in both the 2007 and 2008 petitions and in our files did not indicate that any of the 11 species were at significant risk of well-being, and in need of temporary protections under section 4(b)(7) of the Act (i.e. emergency listing).

We subsequently published an initial 90–day finding for 165 of the 206 petitioned species on February 5, 2009,

concluding that the petition did not present substantial information indicating that listing of those species may be warranted (74 FR 6122). That finding included the Brian Head mountainsnail in a table of species by category, and mistakenly cited it as fitting into "Category A," meaning that no information was provided. The Brian Head mountainsnail should have been in "Category C," meaning that some information on the species was provided, but that information was not substantial.

In response to a January 7, 2010, complaint from WildEarth Guardians, we agreed, under a June 28, 2010, stipulated settlement agreement, to reassess the petition with respect to the Brian Head mountainsnail, to specifically explain a review of any literature readily available from NatureServe and in our files at the time the petition was submitted, and to issue a new 90–day finding. This finding meets the terms included in the settlement agreement and addresses the petition.

Species Information

The Brian Head mountainsnail is reported from Iron County, Utah. The species exists as a localized population at a rock slide on the southwest slope of Brian Head Peak, above timberline at approximately 3,350 meters (11,000 feet) (Oliver and Bosworth 2002, p. 451). The rock slide is located within a mountain shrub habitat type that is the focus of conservation by the State of Utah (Gorrell *et al.* 2005, p. K-11).

Prior to 2002, one empty shell had been found by Clarke (1993). In 2002, the first living examples (18 individuals) of the species were documented at 4 of 14 small survey stations within an area of about 11 hectares (27 acres), and the species was noted as the most common gastropod at the stations where it was detected (Oliver and Bosworth 2002, p. 452). The researchers also collected 49 empty shells and 5 embryos at 7 of the 14 survey sites (Oliver and Bosworth 2002, p. 452). This data appears to represent the best and only information on Brian Head mountainsnail abundance. Based on the information presented above, it appears that the information presented in NatureServe concerning occurrence records may be erroneous in stating that the first live specimens were found in 1998, and that Oliver and Bosworth (2002) found 37 specimens.

Brian Head mountainsnail population trends are unknown. Information in NatureServe indicated that the species is stable in the short term, that few immediate threats exist, and that the long-term trend may be stable. The high-elevation (at or above timberline) and barren nature (rock slides) of the species' habitat tend to provide it with relatively good protection from potential threats such as timber harvest, development, and other anthropogenic activities (Oliver and Bosworth 2002, p. 453).

Evaluation of Information for this Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this 90–day finding, we evaluated whether information regarding the factors affecting the Brian Head mountainsnail, as presented in the petition, may reasonably constitute threats that may be negatively impacting the species, thereby indicating that the petitioned action may be warranted. We had no information in our files on the species. Our evaluation of the information from the petition is presented below.

The petitioners presented two tables that collectively presented 206 species for consideration for listing under the Act, including the Brian Head mountainsnail, and requested that the Service incorporate analyses, references, and documentation provided by NatureServe in its online database (*http://www.natureserve.org/) into the petition. We* accessed the NatureServe database on August 10, 2007, saved a hardcopy of the Brian Head mountainsnail file, and fully evaluated this information, including references cited, during our review.

For the Brian Head mountainsnail, the NatureServe database had a "Local Programs" link to the website of the Utah Department of Natural Resources (UDNR), Division of Wildlife Resources. We reviewed the information, assertions, and opinions of the State program provided on that site because that program has primary management responsibility for non-federally listed species.

We followed regulations at 50 CFR 424.14(b) in evaluating the information presented in the petition. Paragraph (b)(1) of that section provides that the Service must consider whether the petition has presented substantial information indicating to a reasonable person that the petitioned action may be warranted. Paragraph (b)(2) requires us to consider whether the petition provides a detailed narrative justification describing past and present numbers and distribution of the species, and any threats faced by the species. We must also consider whether the petition provides appropriate supporting documentation—references, publications, reports, or letters from authorities, and maps.

A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range.

Ski resort operations exist to the west and northwest of Brian Head mountainsnail habitat. However, according to Oliver and Bosworth (2002, p. 453), the operation of the ski resort does not appear to provide a threat to the species or its habitat. No information was presented in the petition to indicate that expansions of the ski resort are planned.

An unpaved road exists on the south side of Brian Head Peak that extends to the summit (Oliver and Bosworth 2002, p. 453), but no information was presented in the petition to indicate that this road affects the Brian Head mountainsnail or its habitat. NatureServe states that hikers and mountain bikers utilize the area and, therefore, are a potential threat, but NatureServe provides no indication of whether Brian Head mountainsnail sites are being impacted; it is unlikely that these activities are occurring on rock slides, which constitute habitat for the snail.

Grazing is listed as a general threat to mountain shrub habitat by the State of Utah (Gorrell *et al.* 2005, pp. 6-67 and K-11), and domestic sheep have been noted 10 kilometers (6 miles) away (Oliver and Bosworth 2002, p. 453). No information was presented in the petition indicating that grazing may be negatively affecting the rock habitat inhabited by the Brian Head mountainsnail.

On the basis of a review of the information referenced by the petition related to the specific potential threats it identifies, we find that there is not substantial information to reasonably suggest that these factors may be threats

to the species such that listing may be warranted. Consequently, we have determined that the petition, including references cited in NatureServe that were readily available, does not contain substantial information to indicate that the present or threatened destruction, modification, or curtailment of the species' habitat or range is a threat to the Brian Head mountainsnail.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.

Rock collectors, who gain access via the unpaved road on the south side of Brian Head Peak, have been encountered near Brian Head mountainsnail habitat (Oliver and Bosworth 2002, p. 453); however, no information was presented in the petition indicating that this activity may be affecting the species or its habitat.

On a basis of a review of the information referenced by the petition related to the specific potential threats identified in the petition, we find that there is not substantial information to reasonably suggest that these factors may be threats to the species such that listing may be warranted. Consequently, we have determined that the petition, including references cited in NatureServe that were readily available, does not contain substantial information to indicate that overutilization for commercial, recreational, scientific, or educational purposes is a threat to the Brian Head mountainsnail.

C. Disease or Predation.

We have determined that the petition, including references cited in NatureServe that were readily available, does not contain any information concerning threats to the Brian Head mountainsnail from disease or predation. Therefore, we find that the petition does not present substantial information that either disease or predation is a threat to the species.

D. Inadequacy of Existing Regulatory Mechanisms.

The petition discusses the lack of protection under the Act for the species, stating that unless a species is listed as endangered or threatened under the Act, it receives no protections from the statute. The petition provides no information addressing any other State or Federal regulations, and no information about the inadequacy of existing regulatory mechanisms.

The petitioner's claim that we could afford more protection to the species if it was listed under the Act does not provide substantial information that the existing regulatory mechanisms are inadequate. As the petitioner acknowledges, under 16 U.S.C. 1533(b)(1)(A), we must reach our determination solely on the basis of the best scientific and commercial data available. The petition presents no specific information related to other Federal, State, or local government regulatory mechanisms that may exist to provide regulatory protections for the species or its habitat, other than the State of Utah Comprehensive Wildlife Conservation Strategy. Further, the petition provides no information to suggest that regulatory mechanisms may be inadequate.

Brian Head mountainsnail habitat is within the Dixie National Forest, and, therefore, is afforded Federal environmental and conservation considerations required by the National Forest Management Act (16 U.S.C. 1600 *et seq.*) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). The State of Utah lists it as a Species of Concern (Utah Department of Natural Resources (UDNR) 2007, p. 7), and follows its Comprehensive Wildlife Conservation Strategy (Gorrell *et al.* 2005, pp. 6-67, K-11) in implementing management and conservation actions specifically for the Brian Head mountainsnail. Further, the high-elevation and barren nature of the species' habitat tends to provide it with relatively good protection from otherwise potential threats such as timber harvest, development, and other anthropogenic activities (Oliver and Bosworth 2002, p. 453).

We have determined that the petition, including references cited in NatureServe that were readily available, does not contain substantial information to indicate that the inadequacy of existing regulatory mechanisms is a threat to the Brian Head mountainsnail.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence.

The UDNR website page for the Brian Head mountainsnail indicated that because the species occurs as a single, localized population, it is susceptible to catastrophic events (UDNR website, p. 1). However, in order to determine that substantial information exists to indicate that a species may be endangered or threatened, we must determine that the species may be subject to threats (such as drought, flood, habitat destruction, pollution, or exotic species). Threats may be based on environmental, biological, or anthropogenic factors. The petition does not present any substantial information on threats to the Brian Head mountainsnail.

When determining whether a species may warrant listing under the Act, it is important to distinguish between the presence of threats, either now or in the foreseeable future, and the susceptibility of a species to those threats, in order to determine whether those threats may likely impact the species and potentially cause it to be in danger of extinction now or in the foreseeable future. The Brian Head mountainsnail may be a naturally rare species. Although rare species may be vulnerable to single event occurrences, it is important to have information on how likely the occurrence of such an event may be, whether the specific event might impact the species, what form that impact would take and by what mechanism (i.e., what specific life-history function, habitat requirement, or other need of the species might be impacted and how), and whether the possible impact would likely result in a significant threat to the species (i.e., to what extent might the event have a negative impact). Available information should be specific to the species and should reasonably suggest that operative threats will act on the species to the point that the species may warrant protection under the Act. Statements about a generalized threat (especially within a general area and not within the species' habitat) do not constitute substantial information that listing may be warranted. General stochastic events such as natural catastrophes do not necessarily threaten a species simply because that species is rare.

Information on a species' rarity is relevant to the conservation status of a species. Generally, a species that has a geographically restricted range is likely to be more susceptible to environmental threats (e.g., fire, flood, drought, human land use), if they occur, than a species that is more widespread. A single event could affect a larger total percentage of the range of a rare species than of a widespread species. However, for the Brian Head mountainsnail, we do not have substantial information regarding whether any environmental or anthropogenic threats are negatively affecting the species or are likely to do so in the foreseeable future. Stochastic events (e.g., catastrophic fire and flood) are unpredictable by nature, but can be indicated by historic records or climate predictions. The fact that a rare species is potentially vulnerable to stochastic processes does not necessarily mean that it is reasonably likely to experience, or have its status affected by, a given event within the timescales that are meaningful under the Act.

The petition provides no information to indicate that the range or abundance

of the Brian Head mountainsnail has been significantly curtailed. Therefore, we do not know if the species has always been rare, or if it was once more widespread. Many features of a species' biology, ecology, and habitat, such as its life history, population structure, geographic location, or characteristics of its local landscape, will modify its vulnerability to any potential threat. Whether a rare species is affected by environmental or biological factors, and the magnitude of the effect of these factors on the species' ability to persist into the foreseeable future, is species- and context-specific. The petition does not contain information about the biology and ecology of the species that would indicate that there may be any substantial genetic or demographic impacts to the Brian Head mountainsnail based on other natural or manmade factors affecting the species' continued existence.

We recognize that many of the species contained within the NatureServe database have limited distribution or small population size, but these two factors alone (i.e., rarity), without additional information regarding threats, do not meet the substantial information threshold indicating that the species may warrant listing. In the absence of information identifying threats to the species, and linking those threats to the rarity of the species, we do not consider rarity to be a threat.

We have determined that the petition, including references cited in NatureServe that were readily available, does not present substantial information that rarity, or any other natural or manmade factors are a threat to the Brian Head mountainsnail.

Finding

We reviewed and evaluated information cited in the petition that was readily available. We had no information available in our files on the species. On the basis of our review under section 4(b)(3)(A) of the Act, we have determined that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for the Brian Head mountainsnail.

Although we will not commence a status review in response to the petition, we will continue to accept information and materials regarding the Brian Head mountainsnail at our Mountain-Prairie Region Ecological Services Office (see **ADDRESSES**).

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov and upon request from the Mountain-Prairie Region* Ecological Services Office (see **ADDRESSES**).

Authors

The primary authors of this document are the staff members of the Mountain-Prairie Region Ecological Services Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 4, 2010.

Wendi Weber,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2010–20099 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–55–S

Notices

Federal Register
Vol. 75, No. 158
Tuesday, August 17, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 11, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: Real Estate Title Clearance and Loan Closing—7 CFR 1927–B.

OMB Control Number: 0575–0147.

Summary of Collection: Rural Housing Service is a credit agency for the Department of Agriculture. The Agency offers a supervised credit program to build family farms, modest housing, sanitary water and sewer systems, essential community facilities, businesses and industries in rural areas. Section 306 of the Consolidated Farm and Rural Development Act (CONTACT), 7 U.S.C. 1926.a (as amended), authorizes RUS to make loans to public agencies, American Indian Tribes, and non-profit corporations. The loans fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Section 501 of Title V of the Housing Act of 1949, as amended, provides authorization to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings and to provide decent, safe and sanitary living conditions in rural areas. The Secretary of Agriculture is authorized to prescribe regulations to ensure that these loans, made with Federal funds, are legally secured.

Need and Use of the Information: The approved attorney/title company (closing agent) and the field office staff collect the required information. Forms and or guidelines are provided to assist in the collection, certification and submission of this information. Most of these forms collect information that is standard in the industry. If the information is collected less frequently, the agency would not obtain the proper security position on the properties being taken as security and would have no evidence that the closing agents and agency meet the requirements of these regulations.

Description of Respondents: Individuals or households; Business or other for-profit, Not-for-profit institutions; Farms.

Number of Respondents: 18,410.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5,395.

Rural Housing Service

Title: Direct Single Family Housing Loan and Grant Program, 7 CFR 3550, HB–1–3550, HB–2–3550.

OMB Control Number: 0575–0172.

Summary of Collection: The Rural Housing Service (RHS) is a credit agency for rural housing and community development within the Rural Development mission area of the Department of Agriculture. Section 501 of Title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to administer such programs and to prescribe regulations to ensure that these loans and grants provided with Federal Funds are made to eligible applicants for authorized purposes, and that subsequent servicing and benefits provided to borrowers are consistent with the authorizing statute. RHS offers a supervised credit program to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings, which will provide modest, decent, safe, and sanitary housing to eligible individuals living in rural areas. To assist individuals in obtaining affordable housing, a borrower's house payment may be subsidized to an interest rate as low as 1%. The information requested by RHS is vital to be able to process applications for RHS assistance and make prudent credit and program decisions. RHS will collect information using several forms.

Need and Use of the Information: RHS will collect information to verify program eligibility requirements; continued eligibility requirements for borrower assistance; servicing of loans; eligibility for special servicing assistance such as: payment subsidies, moratorium (stop) on payments, delinquency workout agreements; liquidation of loans; and, debt settlement. The information is used to ensure that the direct Single Family Housing Programs are administered in a manner consistent with legislative and administrative requirements. Without the information RHS would be unable to determine if a borrower would qualify for services or if assistance has been granted to which the customer would not be eligible under current regulations and statutes.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 200,000.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 612,076.

Rural Housing Service

Title: Non-Profit Customer Voluntary Survey on the Equal Treatment Rule.

OMB Control Number: 0575–0192.

Summary of Collection: In accordance with the Government Performance and Results Act and Executive Order 13280, Responsibilities of the Department of Agriculture and the Agency for International Development With Respect to Faith-Based and Community Initiatives, the survey will measure Rural Development's implementation of and compliance with the Equal Treatment Rule (7 CFR part 16) as well as implement action plans and measure improvements. The 14 Rural Development programs under the Faith-Based and Community Initiatives provide insured or guaranteed loans and/or grants to eligible applicants (including non-profit entities) located in rural geographic areas to assist them in providing services to beneficiaries, low-income individuals and communities.

Need and Use of the Information: To facilitate improved participant outcome, and in an effort to continuously improve program services, the survey can measure impediments that applicants may have encountered when they submitted an application. The outcome of the Voluntary Survey on the Equal Treatment Rule will provide the general satisfaction level among non-profit borrowers throughout the nation, highlight areas that need improvement, provide a benchmark for future surveys, and improvement in implementation of and compliance with the Equal Treatment Rule.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 4,000.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 320.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–20280 Filed 8–16–10; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Agricultural Surveys Program. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by October 18, 2010 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0213, by any of the following methods:

- *E-mail: omb officer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Fax:* (202) 720–6396.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Surveys Program.

OMB Control Number: 0535–0213.

Expiration Date of Approval: December 31, 2010.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare and issue State and national estimates of crop and livestock production, prices and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture. The Agricultural Surveys Program contains a series of surveys that obtains basic agricultural data from farmers and ranchers throughout the Nation for preparing agricultural estimates and forecasts of crop acreage, yield, and production; stocks of grains and soybeans; hog and pig numbers; sheep inventory and lamb crop; cattle inventory; cattle on feed; grazing fees; and land values. Uses of the statistical information collected by these surveys are extensive and varied. Producers, farm organizations, agribusinesses, commodity exchanges, State and national farm policy makers, and government agencies are important users of these statistics. Agricultural statistics are used to plan and administer other related Federal and State programs in such areas as consumer protection, conservation, foreign trade, education, and recreation.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, "Implementation Guidance for Title V of the E–Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)," **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average less than 15 minutes per response.

Respondents: Farmers and ranchers.

Estimated Number of Respondents: 400,000.

Estimated Total Annual Burden on Respondents: 170,000 hours.

Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at (202) 690–2388.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or

other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, July 27, 2010.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. 2010–20113 Filed 8–16–10; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; National Survey on Recreation and the Environment (NSRE)

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection, National Survey on Recreation and the Environment.

DATES: Comments must be received in writing on or before October 18, 2010 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Ken Cordell, USDA Forest Service, 320 Green Street, Athens, GA 30602–2044. Comments also may be submitted by e-mail to: *kcordell@fs.fed.us.*

The public may inspect comments received at USDA Forest Service, Research Work Unit SRS–4953, 320 Green Street, Athens, GA, Room 233, during normal business hours. Visitors are encouraged to call ahead to 706–559–4262 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: H. Ken Cordell, Research Work Unit SRS–4953, 706–559–4263. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: National Survey on Recreation and the Environment.

OMB Number: 0596–0127.

Expiration Date of Approval: 1/31/11.

Type of Request: Extension with Revisions.

Abstract: Federal land-managing agencies are responsible for the management of more than 650 million acres of public lands; this includes management for recreation opportunities. To manage well and wisely, knowledge of recreation demands, opinions, preferences, and attitudes regarding the management of these lands is imperative and necessary to the development of effective policy, planning, and on-the-ground management. For all Federal agencies, input from and knowledge about the public is mandatory.

For the Forest Service (U.S. Department of Agriculture) and other management agencies, the collection and analysis of public demand data are vital to designing effective policies and programs for the management and use of water, forest, range, and wildlife resources. Authorizing legislation for this collection is the Forest and Rangeland Renewable Resources Planning Act (RPA) (Pub. L. 93–378–88 Stat. 475), which directs the Secretary of Agriculture to assess the status of the Nation's forest and range lands periodically and to recommend a Forest Service program for their sustained management and use. Among the program areas included in the Forest Service assessment are outdoor recreation and wilderness.

The Forest Service is the agency responsible for the survey. This is the tenth in a series of national recreation surveys conducted since 1960. The survey:

(1) Measures the public demand for the Nation's land, water, and other natural resources for outdoor recreation;

(2) Identifies public perceptions of accessibility and suitability of recreational sites;

(3) Seeks public feedback regarding the management of public recreation sites and natural resources;

(4) Asks for suggestions on how public agencies can improve management of public recreation areas and natural resources;

(5) Seeks information on public attitudes about the environment and about the use and management of natural resources ;

(6) Identifies shifts in recreational demands that might influence the delivery of recreational services; and

(7) Obtains information concerning the amount of time and type of activities that children spend outdoors (*i.e.,* information obtained from parent or guardian).

The survey consists of a telephone survey of 30,000 individuals, age 16 or older, residing in the United States and will be conducted using computer assisted telephone interviewing (CATI) technology. The Human Dimensions Research Laboratory at the University of Tennessee in Knoxville, TN will likely conduct the telephone interviews and data collection. A team of research scientists representing the main Federal agencies involved in the survey will analyze the data. Both English and Spanish versions of the questionnaires will used.

Estimate of Annual Burden: 10 minutes per respondent (0.167 hr).

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 10,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,670 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the 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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: August 10, 2010.

Carlos Rodriguez-Franco,

Acting Deputy Chief, Research & Development.

[FR Doc. 2010–20241 Filed 8–16–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Boundary Establishment for the Black National Wild and Scenic River; Ottawa National Forest; Gogebic County; MI

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 3(b) of the Wild and Scenic Rivers Act, the USDA Forest Service, Washington Office, is transmitting the final boundary of the Black National Wild and Scenic River to Congress.

FOR FURTHER INFORMATION CONTACT: Information may be obtained by contacting Bill Baer, Recreation Program Manager, Ottawa National Forest, E6248 US Hwy 2, Ironwood, MI 49938. Telephone 906–932–1330.

SUPPLEMENTARY INFORMATION: The Black Wild and Scenic River boundary is available for review at the following offices: USDA Forest Service, Office of the Chief, 1400 Independence Avenue, SW., Washington, DC 20024; USDA Forest Service, Eastern Region, Suite 400, 626 East Wisconsin Avenue, Milwaukee, WI 53202 and; Ottawa National Forest, E6248 US Hwy 2, Ironwood, MI 49938. A detailed legal description is available upon request.

The Michigan Scenic Rivers Act of 1992 (Pub. L. 102–249—March 3, 1992) designated the Black River, Michigan, as a National Wild and Scenic River, to be administered by the Secretary of Agriculture. As specified by law, the boundary will not be effective until 90 days after Congress receives the transmittal.

Dated: August 4, 2010.

Susan J. Spear,

Forest Supervisor.

[FR Doc. 2010–19802 Filed 8–16–10; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nebraska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Nebraska Advisory Committee to the Commission will convene on Wednesday, September 8, 2010 at 9 a.m. and adjourn at approximately 3:30 p.m. (CST) at Southeast Community College—Lincoln Campus, 8800 O Street, Room G–1, Lincoln, NE 68520–1299. The purpose of the meeting is to conduct briefing and planning a future civil rights project.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by September 18, 2010. The address is U.S. Commission on Civil Rights, 400 State Avenue, Suite 908, Kansas City, Kansas 66101. Persons wishing to e-mail their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Farella E. Robinson, Regional Director, Central Regional Office, at (913) 551–1400, (or for hearing impaired TDD 913–551–1414), or by e-mail to *frobinson@usccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Central Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov,* or to contact the Central Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, August 12, 2010.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2010–20304 Filed 8–16–10; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY13

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for two new scientific research permits and one permit renewal.

SUMMARY: Notice is hereby given that NMFS has received three scientific research permit application requests relating to Pacific salmon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview__open__for__comment.cfm*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on September 16, 2010.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by e-mail to *nmfs.nwr.apps@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph.: 503–231–2005, Fax: 503–230–5441, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available from the address above, or online at *apps.nmfs.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (Oncorhynchus tshawytscha): threatened lower Columbia River (LCR), threatened upper Willamette River (UWR), endangered upper Columbia River (UCR), threatened Snake River (SR) spring/summer (spr/sum), threatened SR fall Chinook salmon.

Chum salmon (*O. keta*): threatened Columbia River (CR).

Steelhead (*O. mykiss*): threatened LCR, threatened UWR, threatened middle Columbia River (MCR), threatened SR, threatened UCR.

Coho salmon (*O. kisutch*): threatened LCR, threatened Oregon Coast (OC).

Sockeye salmon (*O. nerka*): endangered SR.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR Parts 222–226). NMFS issues permits based on findings that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1336 - 6R

The Port Blakely Farms (PBF) is seeking to renew its permit to take juvenile UWR Chinook salmon, LCR Chinook salmon, UWR steelhead and LCR steelhead in headwater streams in

western Oregon and Washington. The purpose of the research is to evaluate factors limiting fish distribution and water quality in streams owned by PBF. The research would benefit listed salmonids by producing data to be used in conserving and restoring critical habitat. The PBF proposes to capture (using backpack electrofishing and dipnetting), handle, and release juvenile fish. The PBF does not intend to kill any fish being captured but some may die as an unintentional result of the research activities.

Permit 14668

The United States Fish and Wildlife Service (FWS) is seeking a five-year permit to take listed salmonids while conducting the National Wild Fish Health Survey. The purpose of the research is to determine the distribution of the Spring Viremia virus in wild carp. The FWS would capture, handle, and release listed juvenile salmonids (UCR Chinook and steelhead, SR spr/sum and fall Chinook, SR steelhead, SR sockeye, MCR steelhead, LCR Chinook, LCR coho, LCR steelhead, CR chum, UWR Chinook and steelhead, and OC coho) while conducting the research on carp. The research would benefit listed species by helping managers determine the endemic extent of the virus. The FWS would use beach seines and boat and backpack electrofishing equipment to capture juvenile fish. Researchers would avoid contact with adult fish. If listed fish are captured during the research they would be released immediately. The researchers do not expect to kill any listed fish but a small number may die as an unintended result of the research activities.

Permit 15544

The Army Corps of Engineers (Corps) is seeking a two-year permit to take SR spr/sum and fall Chinook, SR steelhead., and SR sockeye while evaluating ways to manage dredged sediment on the Lower Snake River (Asotin to Pasco, WA). As part of the study, they would analyze the prospect of creating shallow water habitat that would benefit listed Snake River salmonids. The research would help the Corps develop a Programmatic Sediment Management Plan and associated Environmental Impact Statement for all four reservoirs on the lower Snake River. The proposed study would identify and characterize existing high-suitability habitats for rearing salmonids and place an emphasis on capturing seasonal variability of specific life-stage habitat requirements. The information gained would help the fisheries management community make decisions regarding the short- and long-term influence of in-water dredge sediment disposal on salmonid. The fish would be captured using boat electrofishing equipment, tapping, and long-lining. Captured juvenile fish would be identified, measured, counted, and released. Adult salmonids would be avoided and the boat electrofisher will be turned off immediately if any are encountered. The researchers do not intend to kill any listed fish, but a small number may die as an inadvertent result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30–day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: August 11, 2010.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–20319 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 85–16A18]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review to U.S. Shippers Association (Application #85–16A18).

SUMMARY: The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to U.S. Shippers Association (“USSA”) on August 9, 2010. The Certificate has been amended sixteen times. The previous amendment was issued to USSA on December 16, 2008, and a notice of its issuance was published in the **Federal Register** on December 22, 2008 (73 FR 78291). The original Certificate for USSA was issued on June 3, 1986, and a notice of its issuance was published in the **Federal Register** on June 9, 1986 (51 FR 20873).

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Competition and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or e-mail at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2010).

The Office of Competition and Economic Analysis (“OCEA”) is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary’s determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

USSA’s Export Trade Certificate of Review has been amended to:

1. Add the following new Members of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Sekisui Specialty Chemicals America, LLC, Dallas, TX (*controlling entity:* Sekisui America Corporation, Mt. Laurel, NJ); and Thomas M. Johnson, Park Ridge, NJ.

2. USSA also seeks to add Cray Valley USA, LLC, Exton, PA (*controlling entity:* TOTAL Holdings USA, Inc., Houston, TX) and Sartomer USA, LLC, Exton, PA (controlling entity: TOTAL Holdings USA, Inc., Houston, TX) as new Members of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)). These two entities are the surviving entities following a reorganization of Sartomer Company, Inc., Exton, PA (previously a Member of USSA’s Certificate).

3. Delete the following Members from USSA’s Certificate: Atotech USA, Inc., Rockhill, SC; Bostik, Inc., Wauwatosa, WI; Cook Composites and Polymers Co., Kansas City, MO; Hutchinson FTS, Inc., Troy, MI; Paulstra CRC Corporation, Grand Rapids, MI; TOTAL Lubricants USA, Inc., Linden, NJ; TOTAL PETROCHEMICALS USA, INC., Houston, TX; Carrie M. Bowden, Missouri City, TX; Dawn K. Peterson, Katy, TX; and Sartomer Company, Inc., Exton, PA.

Dated: August 11, 2010.

Joseph E. Flynn,

Director, Office of Competition and Economic Analysis.

[FR Doc. 2010–20232 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XW11

Marine Mammals; File No. 14514

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the University of Florida, Aquatic Animal Program, College of Veterinary Medicine, Gainesville, FL 32610 (Ruth Francis-Floyd, Responsible Party) has been issued a permit to receive, import and export marine mammal parts under NMFS jurisdiction for scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Laura Morse, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On May 3, 2010, notice was published in the **Federal Register** (75 FR 23241) that a request for a permit to import and export marine mammal parts for scientific research had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 14514 authorizes marine mammal parts under the jurisdiction of NMFS to be received, imported, and exported world-wide for research on disease afflicting marine mammals including viral pathogens and brevetoxin studies; development of a marine mammal histology database and atlas and marine mammal cell lines; and comparative morphology studies. The permit is issued for a 5–year period.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 28, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–20323 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV92

Marine Mammals; File No. 14610

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that the Alaska Department of Fish and Game (ADFG), Division of Wildlife Conservation, Juneau, AK (Principal Investigator: Robert Small, Ph.D.) has been issued an amendment to Permit No. 14610 to conduct research on marine mammals.

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: On April 20, 2010, notice was published in the **Federal Register** (75 FR 20565) that a request for a permit to conduct research on beluga whales (*Delphinapterus leucas*), endangered bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), and endangered humpback whales (*Megaptera novaeangliae*) had been submitted by the above-named applicant. The requested permit was issued on May 21, 2010 (75 FR 30383) for the beluga whale and gray whale projects under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216). A decision on the bowhead whale and humpback whale projects was deferred pending completion of consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*).

An amended permit has been issued under the authority of the MMPA, the regulations governing the taking and importing of marine mammals, the ESA, and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226). The permit has been amended to include remote biopsy and instrument attachment for bowhead and humpback whales. The amended permit is valid through the expiration date of the original permit, May 31, 2015.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment (EA) was prepared analyzing the effects of the permitted activities on the human environment. Based on the analyses in the EA, NMFS determined that issuance of the permit amendment would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in a Finding of No Significant Impact (FONSI), signed on August 2, 2010.

Dated: August 11, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–20324 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: NIST announces that the Manufacturing Extension Partnership (MEP) Advisory Board, National Institute of Standards and Technology (NIST) will hold an open meeting on Monday, September 13, 2010 from 8 a.m. to 4:30 p.m.

DATES: The meeting will convene September 13, 2010 at 8 a.m. and will adjourn at 4:30 p.m. on September 13, 2010.

ADDRESSES: The meeting will be held at Grand Hyatt Denver, 1750 Welton Street, Denver, Colorado 80202. Anyone wishing to attend this meeting should submit name, e-mail address and phone number to Susan Hayduk (*susan.hayduk@nist.gov* or 301–975–5614) no later than September 7, 2010.

FOR FURTHER INFORMATION CONTACT: Karen Lellock, Manufacturing Extension Partnership, National Institute of Standards and Technology, 100 Bureau Drive, Stop 4800, Gaithersburg, Maryland 20899–4800, telephone number (301) 975–4269.

SUPPLEMENTARY INFORMATION: This meeting is being held in conjunction with the Quarterly Update Meeting for the MEP system. The MEP Advisory Board is composed of 10 members, appointed by the Director of NIST, who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. MEP is a unique program consisting of centers across the United States and Puerto Rico, with partnerships at the State, Federal, and local levels. The Board works closely with MEP to provide input and advice on MEP's programs, plans, and policies. For this meeting, discussions will focus on an overview on (1) the current manufacturing climate and policy initiatives, (2) MEP program evaluation metrics and (3) a discussion of how to support small manufacturers' commercialization of new products and services. The agenda may change to accommodate other Board business.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the MEP Advisory Board's business are invited to request a place on the agenda. Approximately fifteen minutes will be reserved for public comments at the beginning of the meeting. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be no more than 3 to 5 minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the MEP Advisory Board, National Institute of Standards and Technology, National Institute of Standards and Technology, 100 Bureau Drive, Stop 4800, Gaithersburg, Maryland 20899–4800, via fax at (301) 963–6556, or electronically by e-mail to *karen.lellock@nist.gov.*

Dated: August 10, 2010.

Harry Hertz,

Director, Baldrige National Quality Program.

[FR Doc. 2010–20312 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee), will meet Tuesday, November 9, 2010 from 8:30 a.m. to 5 p.m. and Wednesday, November 10, 2010, from 8:30 a.m. to 4 p.m. The primary purpose of this meeting is to receive information on NEHRP earthquake related activities and to gather information for the 2011 Annual Report of the Effectiveness of the NEHRP Advisory Committee on Earthquake Hazard Reduction. The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP Web site at *http://nehrp.gov/.*

DATES: The ACEHR will meet on Tuesday, November 9, 2010, from 8:30 a.m. until 5 p.m. The meeting will continue on Wednesday, November 10, 2010, from 8:30 a.m. until 4 p.m. The meeting will be open to the public.

ADDRESSES: The meeting will be held in the Fishbowl Room, University of Memphis, FedEx Institute of Technology, 365 Innovation Drive, Memphis, TN 38152–3115. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Dr. Jack Hayes, National Earthquake Hazards Reduction Program Director, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8630, Gaithersburg, Maryland 20899–8630. Dr. Hayes' e-mail address is *jack.hayes@nist.gov* and his phone number is (301) 975–5640.

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the requirements of Section 103 of the NEHRP Reauthorization Act of 2004 (Pub. L. 108–360). The Committee is composed of 15 members appointed by the Director of NIST, who were selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues affecting the National Earthquake Hazards Reduction Program. In addition, the Chairperson of the U.S. Geological Survey (USGS) Scientific Earthquake Studies Advisory Committee (SESAC) serves in an ex officio capacity on the Committee. The Committee assesses:

- Trends and developments in the science and engineering of earthquake hazards reduction;
- The effectiveness of NEHRP in performing its statutory activities (improved design and construction methods and practices; land use controls and redevelopment; prediction techniques and early-warning systems; coordinated emergency preparedness plans; and public education and involvement programs);
- Any need to revise NEHRP; and
- The management, coordination, implementation, and activities of NEHRP.

Background information on NEHRP and the Advisory Committee is available at *http://nehrp.gov/.*

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Advisory Committee on Earthquake Hazards Reduction (ACEHR) will meet Tuesday, November 9, 2010 from 8:30 a.m. to 5 p.m. and Wednesday, November 10, 2010, from 8:30 a.m. to 4 p.m. The meeting will be held in the Fishbowl Room, The University of Memphis, FedEx Institute of Technology, 365 Innovation Drive, Memphis, TN 38152–3115. The primary purpose of this meeting is to receive information on NEHRP earthquake related activities and to gather information for the 2011

Annual Report of the Effectiveness of the NEHRP Advisory Committee on Earthquake Hazard Reduction. The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP Web site at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On November 10, 2010, approximately one-half hour will be reserved near the conclusion of the meeting for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the ACEHR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8630, Gaithersburg, Maryland 20899–8630, via fax at (301) 975–5433, or electronically by e-mail to *info@nehrp.gov.*

Anyone wishing to attend this meeting must register by close of business Monday, November 1, 2010 in order to attend. Please submit your name, mailing address, e-mail address, and phone number to Tina Faecke. Ms. Faecke's e-mail address is *tina.faecke@nist.gov,* and her phone number is (301) 975–5911.

Dated: August 10, 2010.

Harry Hertz,

Director, Baldrige National Quality Program.

[FR Doc. 2010–20310 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2010–0065]

Streamlined Procedure for Appeal Brief Review in *Inter Partes* Reexamination Proceedings

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is streamlining the procedure for the review of appeal briefs filed in *inter partes* reexamination proceeding appeals to increase the efficiency of the appellate process and to reduce the pendency of appeals. The Chief Judge of the Board of Patent Appeals and Interferences (BPAI) or his designee (collectively, "Chief Judge"), will have the sole responsibility for determining whether appeal briefs filed in *inter partes* reexamination proceedings (*i.e.,* appellant's briefs, respondent's briefs, and rebuttal briefs) comply with the applicable regulations, and will complete the determination before the appeal brief is forwarded to the examiner for consideration. The examiner will no longer review appeal briefs for compliance with the applicable regulations. The USPTO expects to achieve a reduction in *inter partes* reexamination proceeding appeal pendency as measured from the filing of a notice of appeal to the BPAI's docketing of the appeal by eliminating duplicate reviews by the examiner and the BPAI. The USPTO expects further reduction in pendency because the streamlined procedure will increase consistency in the determination, and thereby reduce the number of notices of noncompliant appeal briefs and non-substantive returns from the BPAI that require parties to file corrected appeal briefs in *inter partes* reexamination proceeding appeals.

DATES: *Effective Date:* The procedure set forth in this notice is effective on August 17, 2010.

Applicability Date: The procedure set forth in this notice is applicable to any appeal brief (regardless of whether it is an appellant's brief, a respondent's brief, or a rebuttal brief) that is filed in an *inter partes* reexamination proceeding on or after August 17, 2010.

FOR FURTHER INFORMATION CONTACT: Merrell Cashion, Case Management Administrator, Board of Patent Appeals and Interferences, by telephone at (571) 272–9797 or by electronic mail at *BPAI.Review@uspto.gov.*

SUPPLEMENTARY INFORMATION: Under the streamlined procedure, upon the filing of an appeal brief in an *inter partes* reexamination proceeding (*i.e.,* an appellant's brief, a respondent's brief, or a rebuttal brief), the Chief Judge will review the appeal brief to determine whether the appeal brief complies with 37 CFR 1.943(c) and 37 CFR 41.67, 41.68, or 41.71 before it is forwarded to the Central Reexamination Unit (CRU) or other Technology Center examiner for consideration. The Chief Judge will endeavor to complete this determination within one month from the filing of the appeal brief. To assist parties in complying with 37 CFR 1.943(c), 41.67, 41.68, and 41.71, the BPAI has provided a checklist for notices of appeal and appeal briefs and a list of eight reasons appeal briefs have been previously held to be noncompliant on the USPTO Web site at: *http://www.uspto.gov/ip/boards/bpai/procedures/guidance_noncompliant_briefs.jsp.* If the appeal brief is determined to be compliant with 37 CFR 1.943(c) and 37 CFR 41.67, 41.68, or 41.71, the Chief Judge will accept the appeal brief and forward it to the examiner for consideration. If the Chief Judge determines that the appeal brief is not compliant with 37 CFR 1.943(c) and 37 CFR 41.67, 41.68, or 41.71, and sends appellant, respondent, or rebutting party a notice of noncompliant brief requiring a corrected brief, the party will be required to file a corrected brief within the time period set forth in the notice to avoid the dismissal of the appeal. *See* 37 CFR 1.943(c) and 37 CFR 41.67(d), 41.68(c), or 41.71(e). The Chief Judge will also have the sole responsibility for determining whether corrected appeal briefs comply with 37 CFR 1.943(c) and 37 CFR 41.67, 41.68, or 41.71, and will address any inquiries and petitions regarding entry of appeal briefs or notices of noncompliant appeal briefs.

The Chief Judge's responsibility for determining whether appeal briefs comply with 37 CFR 1.943(c) and 37 CFR 41.67, 41.68, or 41.71 is not considered a transfer of jurisdiction when an appeal brief is filed, but rather is only a transfer of the specific responsibility to notify appellants under 37 CFR 1.943(c) and 37 CFR 41.67(d) 41.68(c), or 41.71(e) of the reasons for non-compliance. The Patent Examining Corps retains the jurisdiction over the *inter partes* reexamination proceeding to consider the appeal brief, conduct any conference, draft an examiner's answer, and decide the entry and consideration of amendments, evidence, and information disclosure statements filed after final or after the filing of a notice of appeal. Furthermore, petitions concerning the refusal to enter amendments and/or evidence remain delegated to the Patent Examining Corps as provided in the Manual of Patent Examining Procedure (MPEP) § 1002.02(b)–(c).

Once the Chief Judge accepts the appellant's brief, respondent's brief, or rebuttal brief as compliant, an examiner's answer will be provided in the *inter partes* reexamination proceeding if the examiner determines that the appeal should be maintained. The format for the examiner's answer will be streamlined such that the examiner may incorporate by reference

any of the examiner's positions (*e.g.,* rejections) previously made on the record. The examiner will treat all pending claims in the proceeding as being on appeal. If the notice of appeal, notice of cross appeal, or appeal brief identifies fewer than all of the rejected or non-rejected claims as being appealed, the issue will be addressed by the BPAI panel. The jurisdiction of the *inter partes* reexamination proceeding will be transferred to the BPAI when a docketing notice is entered after the time period for filing the last rebuttal brief (if appropriate) expires or the examiner acknowledges the receipt and entry of the last rebuttal brief. After taking jurisdiction, the BPAI will not return or remand the *inter partes* reexamination proceeding to the Patent Examining Corps for issues related to a noncompliant appeal brief.

Date: July 20, 2010.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2010–20340 Filed 8–16–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Strategic Environmental Research and Development Program (SERDP), Scientific Advisory Board

AGENCY: Department of Defense (DoD).

ACTION: Notice.

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). The topic of the meeting on September 14–16, 2010, is to review new start research and development projects requesting Strategic Environmental Research and Development Program (SERDP) funds in excess of $1M. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

DATES: The meeting will be held Tuesday, September 14, 2010 from 8:30 a.m. to 5 p.m., Wednesday, September 15, 2010 from 9 a.m. to 5 p.m. and Thursday, September 16, 2010 from 8:30 a.m. to 11 a.m.

ADDRESSES: The meeting will be held at SERDP Office Conference Center, 901 North Stuart Street, Suite 804, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Bunger, SERDP Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2126.

Dated: August 12, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–20254 Filed 8–16–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Department of Defense Wage Committee

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given the Department of Defense Wage Committee will meet on September 21, October 5, and October 19, 2010, in Rosslyn, VA. The meetings are closed to the public.

DATES: The meetings will be held on Tuesday, September 21, October 5, and October 19, 2010, at 10 a.m.

ADDRESSES: The meetings will be held at 1400 Key Boulevard, Level A, Room A101, Rosslyn, VA 22209.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

SUPPLEMENTARY INFORMATION: Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the three meetings that are the subject of this notice meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence. However, members of the public who may wish to do so are invited to submit material in writing to the chairman (*see* **FOR FURTHER INFORMATION CONTACT**) concerning matters believed to be deserving of the Committee's attention.

Dated: August 12, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–20255 Filed 8–16–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the availability of exclusive or partially exclusive licenses to practice worldwide under the following pending patents. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing ability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; and (6) small business status.

61/292,024, "DISPOSABLE AMALGUM FILTER" filed on 01/04/2010, inventor Mark Stone

DATES: Applications for a non-exclusive, exclusive or partially exclusive license may be submitted at any time from the date of this notice.

ADDRESSES: Submit application to the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone 301–319–7428 or e–mail at: *charles.schlagel@med.navy.mil.*

Dated: August 10, 2010.

H.E. Higgins,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2010–20263 Filed 8–16–10; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 18, 2010.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 11, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Special Education—Institutional Reporting on Regulatory Compliance Related to the Personnel Preparation Program's Service Obligation.

OMB #: 1820–0622.

Agency Form Number(s): N/A.

Frequency: On Occasion.

Affected Public: Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 4,650.

Burden Hours: 6,750.

Abstract: The data collection under this request are governed by Section 304.1–304.32 of the December 9, 1999 regulations that implement section 673(h) of the Individuals with Disabilities Education Act amendments of 1997 which requires that individuals who receive a scholarship through the Personnel Preparation Program funded under the Act subsequently provide special education and related services to children with disabilities for a period of two years for every year for which assistance was received. Scholarship recipients who do not satisfy the requirements of the regulations must repay all or part of the cost of assistance in accordance with regulations issued by the Secretary. These regulations implement requirements governing among other things, the service obligation for scholars, oversight by grantees, and repayment of scholarship. In order for the Federal government to ensure the goals of the program are achieved, certain data collection, record keeping, and documentation are necessary.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4381. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–20326 Filed 8–16–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13714–000]

El Dorado Irrigation District; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

August 10, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 13714–000.

c. *Date filed:* April 19, 2010.

d. *Applicant:* El Dorado Irrigation District.

e. *Name of Project:* Tank 7 In-conduit Hydroelectric Project.

f. *Location:* The proposed Tank 7 In-conduit Hydroelectric Project would be located on the Pleasant Oak main pipeline at the Tank 7 storage tank in El Dorado County, California. The land on which all the project structures are located is owned by the applicant.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Brian Deason, El Dorado Irrigation District, 9050, 2890 Mosquito Road, Placerville, CA 95762, phone (530) 622–4512.

i. *FERC Contact:* Robert Bell, (202) 502–6062, *Robert.bell@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* Due to the small size of the proposed project, as well as the resource agency consultation letters filed with the application, the 60-day timeframe specified in 18 CFR 4.43(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 30 days from the issuance date of this notice. All reply comments filed in response to comments submitted by any resource agency, Indian tribe, or person, must be filed with the Commission within 45 days from the issuance date of this notice.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web

site under the "e-Filing" link. The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The proposed Tank 7 In-conduit Hydroelectric Project consists of: (1) A proposed 24-inch-diameter intake pipeline; (2) a proposed powerhouse containing three proposed generating units with a total installed capacity of 590 kilowatts, (3) a proposed 24-inch-diameter discharge pipeline; and (4) appurtenant facilities. The applicant estimates the project would have an average annual generation of 1.75 gigawatt-hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, here P–13714, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. *Development Application*—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "COMMENTS", "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and seven copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

r. *Waiver of Pre-filing Consultation:* In a letter dated April 1, 2010, the applicant requested the agencies' support to waive the Commission's consultation requirements under 18 CFR 4.38(c). The U.S. Fish and Wildlife Service, in response to the request, recommended that a habitat assessment be completed to assess the actual potential for federally listed species to occur within the project area. No other comments were received. Therefore, we intend to accept the consultation that has occurred on this project during the pre-filing period and we intend to waive pre-filing consultation under section 4.38(c), which requires, among other things, conducting studies requested by resource agencies, and distributing and consulting on a draft exemption application.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20204 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

August 3, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP06–336–000

Applicants: Pine Needle LNG Company, LLC,

Pine Needle LNG Company, LLC

Description: Motion of Pine Needle LNG Company, LLC to Amend Settlement and Request for Shortened Answer Period and Expedited Action.

Filed Date: 07/16/2010

Accession Number: 20100716–5037

Comment Date: 5 p.m. Eastern Time on Thursday, August 5, 2010.

Docket Numbers: RP10–1030–000

Applicants: National Fuel Gas Distribution Corporation

Description: National Fuel Gas Supply Corporation submits their 138th Revised Sheet 9 to FERC Gas Tariff, Fourth Revised Volume 1, to be effective 8/1/10.

Filed Date: 07/30/2010

Accession Number: 20100802–0209

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1031–000

Applicants: Cimarron River Pipeline, LLC

Description: Cimarron River Pipeline, LLC submits Third Revised Sheet 17 to FERC Gas Tariff, Original Volume 1, and request waiver of the provisions of Section 12.5, to be effective 9/1/10.

Filed Date: 07/30/2010

Accession Number: 20100802–0210

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1032–000

Applicants: Caledonia Energy Partners, LLC

Description: Caledonia Energy Partners, LLC submits Original Sheet No 1 *et al.* to FERC Gas Tariff, First Revised Volume 1 to replace its current tariff.

Filed Date: 07/30/2010.
Accession Number: 20100802–0212.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1036–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate Agreement—TGP to be effective 8/1/2010.
Filed Date: 08/02/2010.
Accession Number: 20100802–5068.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1037–000.
Applicants: Granite State Gas Transmission, Inc.
Description: Request for Limited Waiver by Granite State Transmission, Inc.
Filed Date: 08/02/2010.
Accession Number: 20100802–5073.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1038–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Devon-Texla Negotiated Rate filing to be effective 8/1/2010.
Filed Date: 08/02/2010.
Accession Number: 20100802–5088.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1039–000.
Applicants: Equitrans, L.P.
Description: Equitrans' Big Sandy Pipeline Semi-Annual Retainage Filing.
Filed Date: 07/30/2010.
Accession Number: 20100730–5260.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1040–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: Southern Star Central Gas Pipeline, Inc. submits tariff filing per 154.204: Third Party Storage 2010 to be effective 9/1/2010.
Filed Date: 08/02/2010.
Accession Number: 20100802–5107.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1041–000.
Applicants: Southern LNG Inc.
Description: Southern LNG Inc. submits tariff filing per 154.203: SLNG Volume 1 to be effective 8/1/2010.
Filed Date: 08/02/2010.
Accession Number: 20100802–5131.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1042–000.
Applicants: Cheyenne Plains Gas Pipeline Company, L.L.C.
Description: Cheyenne Plains Gas Pipeline Company, L.L.C. submits tariff filing per 154.203: Baseline to be effective 8/2/2010.
Filed Date: 08/02/2010.
Accession Number: 20100802–5139.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1043–000.
Applicants: Southern Natural Gas Company.
Description: Southern Natural Gas Company submits tariff filing per 154.203: SNG Baseline Tariff Filing to be effective 8/2/2010.
Filed Date: 08/02/2010.
Accession Number: 20100802–5153.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1044–000.
Applicants: MIGC LLC.
Description: MIGC LLC submits tariff filing per 154.203: MIGC LLC Baseline Filing to be effective 8/2/2010.
Filed Date: 08/02/2010.
Accession Number: 20100802–5164.
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

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 email notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–20266 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 2

August 4, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–466–006.
Applicants: Kern River Gas Transmission Company.
Description: Kern River Gas Transmission Company submits Substitute Original Sheet 216 *et al.* to FERC Gas Tariff, Second Revised Volume 1 to comply with the Commission's Order issued June 25, 2010.
Filed Date: 07/23/2010.
Accession Number: 20100726–0203.
Comment Date: 5 p.m. Eastern Time on Monday August 09, 2010.

Docket Numbers: RP10–826–001.
Applicants: Maritimes & Northeast Pipeline, LLC.
Description: Maritimes and Northwest Pipeline, LLC submits Seventh Revised Sheet 210 to FERC Gas Tariff, First Revised Volume 1.
Filed Date: 07/27/2010.
Accession Number: 20100728–0203.
Comment Date: 5 p.m. Eastern Time on Monday, August 09, 2010.

Docket Numbers: RP10–876–001.
Applicants: Cheyenne Plains Gas Pipeline Company LLC.
Description: Cheyenne Plains Gas Pipeline Co, LLC re-submits Sheet No. 250 to correct their filing submitted on 6/22/10.
Filed Date: 07/28/2010.

Accession Number: 20100728–0209.
Comment Date: 5 p.m. Eastern Time on Monday, August 09, 2010.

Docket Numbers: RP10–625–002.
Applicants: Texas Eastern Transmission, LP.
Description: Texas Eastern Transmission, LP submits tariff filing per 154.203: RP10–625 Compliance Filing to be effective 4/22/2010.
Filed Date: 07/30/2010.
Accession Number: 20100730–5175.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–20268 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 1

August 11, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1057–000.
Applicants: ANR Pipeline Company.
Description: ANR Pipeline submits amendments to negotiated rate service agreements with BP Exploration & Production, Inc.
Filed Date: 08/06/2010.
Accession Number: 20100806–0211.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Docket Numbers: RP10–1058–000.
Applicants: Golden Triangle Storage, Inc.
Description: Golden Triangle Storage, Inc submits proposed tariff Sheets to FERC Gas Tariff, Original Volume No 1, to be effective 9/1/10.
Filed Date: 08/06/2010.
Accession Number: 20100809–0202.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Docket Numbers: RP10–1059–000.
Applicants: Egan Hub Storage, LLC.
Description: Egan Hub Storage, LLC submits tariff filing per 154.204: 2010–08–11 New Meter Sync-up to be effective 6/21/2010.
Filed Date: 08/11/2010.
Accession Number: 20100811–5023.
Comment Date: 5 p.m. Eastern Time on Monday, August 23, 2010.

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. 2010–20270 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 2

August 11, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1041–001.
Applicants: Southern LNG Inc.
Description: Southern LNG Inc. submits tariff filing per 154.205(b): Errata to 8–2–10 Filing to be effective 8/1/2010.
Filed Date: 08/04/2010.
Accession Number: 20100804–5063
Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–960–001.
Applicants: B–R Pipeline Company.
Description: B–R Pipeline Company submits tariff filing per 154.203: Baseline Errata to be effective 7/12/2010.
Filed Date: 08/06/2010.
Accession Number: 20100806–5083.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Docket Numbers: RP10–961–001.
Applicants: USG Pipeline Company.
Description: USG Pipeline Company submits tariff filing per 154.203: Baseline Errata to be effective 7/12/2010.
Filed Date: 08/06/2010.
Accession Number: 20100806–5026.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Docket Numbers: RP10–968–001.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.203: Baseline Loader 2 to be effective 7/15/2010.

Filed Date: 08/06/2010.

Accession Number: 20100806–5070.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–20271 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

August 6, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1048–000.

Applicants: National Fuel Gas Supply Corporation.

Description: National Fuel Gas Supply Corporation submits Second Revised Sheet No 408 to FERC Gas Tariff, First Revised Volume No. 2, to be effective 9/3/10.

Filed Date: 08/04/2010.

Accession Number: 20100805–0201.

Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1049–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate Agreement 8–1–2010—Colonial, to be effective 8/1/2010.

Filed Date: 08/05/2010.

Accession Number: 20100805–5036.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 17, 2010.

Docket Numbers: RP10–1050–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits its baseline tariff filing Original Volume 1, to be effective 8/5/2010.

Filed Date: 08/05/2010.

Accession Number: 20100805–5101.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 17, 2010.

Docket Numbers: RP10–1051–000.

Applicants: Central Kentucky Transmission Company.

Description: Central Kentucky Transmission Company submits tariff filing per 154.203: Baseline Filing to be effective 8/5/2010.

Filed Date: 08/05/2010.

Accession Number: 20100805–5104.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 17, 2010.

Docket Numbers: RP10–1052–000.

Applicants: Mojave Pipeline Company.

Description: Mojave Pipeline Company submits tariff filing per 154.204: Update Company Name to be effective 9/6/2010.

Filed Date: 08/05/2010.

Accession Number: 20100805–5129.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 17, 2010.

Docket Numbers: RP10–1053–000.

Applicants: Dominion South Pipeline Company, LP.

Description: Dominion South Pipeline Company, LP submits tariff filing per 154.203: DSP–2010 Report of Penalty Revenues.

Filed Date: 08/06/2010.

Accession Number: 20100806–5017.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Docket Numbers: RP10–1054–000.

Applicants: Maritimes & Northeast Pipeline, LLC.

Description: Maritimes & Northeast Pipeline, LLC submits tariff filing per 154.203: MNUS Baseline Filing, to be effective 8/6/2010.

Filed Date: 08/06/2010.

Accession Number: 20100806–5023.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Docket Numbers: RP10–1055–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.501: Report of Refund Transco's GSS LSS Customers Share of DTI Penalty Revenue.

Filed Date: 08/06/2010.

Accession Number: 20100806–5024.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

Docket Numbers: RP10–1056–000.

Applicants: CenterPoint Energy Gas Transmission Company.

Description: CenterPoint Energy Gas Transmission Company submits tariff filing per 154.203: Compliance Filing for Sheet 686 (Section 3.1 Version 0.1.0) to be effective 7/22/2010.

Filed Date: 08/06/2010.

Accession Number: 20100806–5039.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 18, 2010.

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. 2010–20269 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 1

August 4, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1046–000.

Applicants: Young Gas Storage Company, Ltd.

Description: Young Gas Storage Company, Ltd. submits tariff filing per 154.203: Baseline to be effective 8/3/2010.

Filed Date: 08/03/2010.

Accession Number: 20100803–5112.

Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1047–000.

Applicants: National Grid LNG, L.P.

Description: National Grid LNG, LP submits their FERC Gas Tariff, Fourth revised Volume 1 *et al.,* effective 8/9/10.

Filed Date: 08/03/2010.

Accession Number: 20100802–0244.

Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

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. 2010–20267 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

August 2, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1022–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.403: S–2 Tracker Filing to be effective 8/1/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5071.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1023–000.

Applicants: Transwestern Pipeline Company, LLC.

Description: Transwestern Pipeline Company, LLC submits its baseline tariff filing of its FERC Gas Tariff, Fourth Revised Volume No. 1, to be effective 7/30/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5073.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1024–000.

Applicants: Blue Lake Gas Storage Company.

Description: Blue Lake Gas Storage Company submits tariff filing per 154.204: Operational Purchases & Sales to be effective 8/30/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5092.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1025–000.

Applicants: Dominion Transmission, Inc.

Description: Dominion Transmission, Inc. submits tariff filing per 154.204: DTI—Non-Conforming Service Agreements to be effective 8/30/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5116.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1026–000.

Applicants: White River Hub, LLC.

Description: White River Hub, LLC submits its baseline tariff filing for its FERC Gas Tariff, First Revised Volume No. 1, to be effective 7/30/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5134.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1027–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: Midcontinent Express Pipeline LLC submits tariff filing per 154.203: Baseline Filing to be effective 7/30/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5187.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1028–000.

Applicants: Columbia Gulf Transmission Company.

Description: Columbia Gulf Transmission Company submits tariff filing per 154.203: Rate Schedule X–56 Cancellation to be effective 6/10/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5190.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1029–000.

Applicants: Wyoming Interstate Company, LLC.

Description: Wyoming Interstate Company, LLC submits tariff filing per 154.403(d)(2): Quarterly Fuel Filing 09/10 to be effective 9/1/2010.

Filed Date: 07/30/2010.

Accession Number: 20100730–5219.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 11, 2010.

Docket Numbers: RP10–1033–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: BG Energy Negotiated Rate Filing to be effective 8/1/2010.

Filed Date: 08/2/2010.

Accession Number: 20100802–5034.

Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

Docket Numbers: RP10–1034–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: Gulf Crossing Pipeline Company LLC submits tariff filing per 154.204: Devon Amendment Filing to be effective 8/1/2010.

Filed Date: 08/2/2010.

Accession Number: 20100802–5035.

Comment Date: 5 p.m. Eastern Time on Monday, August 16, 2010.

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. 2010–20265 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF10–15–000]

Leader One Energy, LLC; Supplemental Notice of Intent To Prepare an Environmental Assessment for the Planned Leader One Gas Storage Project and Request for Comments on Environmental Issues

August 6, 2010.

On July 30, 2010, Leader One Energy, LLC (Leader One) filed its intent to modify the Leader One Gas Storage Project in Adams County, Colorado, by adding more pipeline facilities. Leader One has also revised the design capacity of the planned storage field. On April 30, 2010, a Notice of Intent to Prepare an Environmental Assessment (original NOI) was issued for the project as originally planned. This Supplemental Notice of Intent (supplemental NOI) addresses these changes. The original NOI is attached to this document, so certain information included in it will not be repeated in the supplemental NOI including the original project description, information about becoming an intervenor, and how to find additional information about the project.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Leader One Gas Storage Project involving construction and operation of the facilities planned by Leader One, including the supplemental facilities. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the supplemental facilities for the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on September 7, 2010.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" is available for viewing on the FERC Web site (*http://www.ferc.gov).* This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

Leader One plans to convert a depleted natural gas reservoir to a new natural gas storage facility and, also, to construct and operate about 17.6 miles of 24-inch-diameter pipeline, the Leader One Header Pipeline, to connect the storage facility to Colorado Interstate Gas Company's (CIG) High Plains Pipeline. The storage facility would have a revised design of 13 billion cubic foot (Bcf) storage capacity of which

about 9.75 Bcf would be working gas and 3.25 Bcf would be base gas. Leader One estimates that the maximum withdrawal rate would be up to 250,000 million cubic feet per day. The planned storage facilities are more fully described in the original NOI. According to Leader One, its project would provide natural gas storage services to meet baseload, seasonal and daily fluctuations in gas demand, including existing peak day demand, and anticipated load growth demand for local gas distribution and power generation in the Front Range of Colorado market area.

The planned supplemental facilities would include about 4.8 miles of 24-inch-diameter pipeline and related facilities referred to as the Leader One Header Pipeline Extension. It would extend northward from the Leader One Header Pipeline near milepost 15.95 to interconnect with CIG's Line 52.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the supplemental facilities would disturb an additional 57.9 acres of land. Following construction, about 29.0 acres would be maintained for permanent operation of the project's supplemental facilities; the remaining acreage would be restored and allowed to revert to former uses. Additional land would be required for construction and operation of the aboveground facilities, access roads, and additional temporary workspaces.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

Our independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section beginning on page 5.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, no agencies have expressed their intention to participate as a cooperating agency in the preparation of the EA to satisfy their NEPA responsibilities related to this project.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[3] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project is further developed. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC, on or before September 7, 2010.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (PF10–15–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's website at *http://www.ferc.gov* under the link to *Documents and Filings.* An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] "We", "us", and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's website at *http://www.ferc.gov* under the link to *Documents and Filings*. With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "*eRegister*." You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20207 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

August 10, 2010.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 13318–000.

c. *Date Filed:* June 9, 2010.

d. *Submitted by:* Swan Lake North Hydro, LLC.

e. *Name of Project:* Swan Lake North Hydroelectric Project.

f. *Location:* Approximately 11 miles northeast of Klamath Falls in Klamath County, Oregon. The project would be a closed-loop pumped storage project utilizing ground water, and would not be built on any existing body of water. The project would occupy United States lands administered by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Brent Smith; Symbiotics LLC; P.O. Box 535; Rigby, Idaho 83442; (208) 745–0834; or e-mail at *brent.smith@symbioticsenergy.com.*

i. *FERC Contact:* Dianne Rodman at (202) 502–6077; or e-mail at *dianne.rodman@ferc.gov.*

j. Swan Lake North Hydro filed its request to use the Traditional Licensing Process on June 9, 2010. Swan Lake North Hydro provided public notice of its request on June 25 through July 29, 2010. In a letter dated August 6, 2010, the Director of the Division of Hydropower Licensing approved Swan Lake North Hydro's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the Oregon State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Swan Lake North Hydro filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20203 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–78–000]

Crosstex LIG, LLC; Notice of Filing

August 10, 2010.

Take notice that on August 5, 2010, Crosstex LIG, LLC (Crosstex) filed to revise its Statement of Operating Conditions to provide additional options for contracting transportation services, change the manner in which Crosstex addresses capacity and priority determinations, clarify the nature in which certain gas accounting will be managed, and to change certain situational financial requirements.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on Monday, August 23, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20206 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–77–000]

Corning Natural Gas Corporation; Notice of Petition Approval of Rate Reduction Agreement

August 10, 2010.

Take notice that on August 4, 2010, Corning Natural Gas Corporation (Corning) filed a petition for approval of a rate reduction agreement, pursuant to Rule 207(a)(5) of the Commissions regulations. Corning proposed to lower its fuel retention rate from 1.32 percent to 0.5 percent.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on Monday, August 23, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20205 Filed 8–16–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9190–4; Docket ID No. EPA–HQ–ORD–2010–0224]

Draft Toxicological Review of Dichloromethane: In Support of Summary Information on the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Peer Review Workshop.

SUMMARY: EPA is announcing that ERG, an EPA contractor for external scientific peer review, will convene an independent panel of experts and organize and conduct an external peer review workshop to review the draft human health assessment titled, "Toxicological Review of Dichloromethane: In Support of Summary Information on the Integrated Risk Information System (IRIS)" (EPA/635/R–10/003A). The draft assessment was prepared by the National Center for Environmental Assessment (NCEA) within the EPA Office of Research and Development.

EPA is releasing this draft assessment solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This draft assessment has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

ERG invites the public to register to attend this workshop as observers. In addition, ERG invites the public to give brief oral comments and/or provide written comments at the workshop regarding the draft assessment under review. Space is limited, and reservations will be accepted on a first-come, first-served basis. In preparing a final report, EPA will consider ERG's report of the comments and recommendations from the external peer review workshop and any written public comments that EPA receives in accordance with this notice.

DATES: The peer review panel workshop on the draft assessment for Dichloromethane will be held on September 23, beginning at 8:30 a.m. and ending at 4 p.m., Eastern Daylight Time.

ADDRESSES: The draft "Toxicological Review of Dichloromethane: In Support of Summary Information on the Integrated Risk Information System (IRIS)" is available primarily via the Internet on the NCEA home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team (*Address:* Information Management Team, National Center for Environmental Assessment [Mail Code: 8601P], U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone:* 703–347–8561; *facsimile:* 703–347–8691). If you request a paper copy, please provide your name, mailing address, and the draft assessment title.

The peer review workshop on the draft dichloromethane assessment will be held at Doubletree Hotel Bethesda & Executive Meeting Center; 8120 Wisconsin Avenue, Bethesda, MD 20814. To attend the workshop, register no later than September 16, 2010, by calling ERG at 781–674–7374 or toll free at 800–803–2833 (ask for the DCM peer review coordinator, Laurie Waite), sending a facsimile to 781–674–2906 (please reference: "DCM peer review workshop" and include your name, title, affiliation, full address, and contact information), or sending an

line: "DCM peer review workshop" and include your name, title, affiliation, full address, and contact information, and whether you wish to make oral comments). You may also register via the Internet at *https://www2.ergweb.com/projects/conferences/peerreview/register-dichlworkshop.htm.* Space is limited, and reservations will be accepted on a first-come, first-served basis. There will be a limited time at the peer review workshop for comments from the public.

Information on Services for Individuals with Disabilities: EPA welcomes public attendance at the Dichloromethane Peer Review Workshop and will make every effort to accommodate persons with disabilities. For information on access or services for individuals with disabilities, contact: ERG, 110 Hartwell Avenue, Lexington, MA 02421–3136; *telephone:* 781–674–7374; *facsimile:* 781–674–2906; or *e-mail: meetings@erg.com* (subject line: DCM peer review workshop), preferably at least 10 days prior to the meeting, to give as much time as possible to process your request.

Additional Information: Questions regarding information, registration, access or services for individuals with disabilities, or logistics for the external peer-review workshop should be directed to ERG, 110 Hartwell Avenue, Lexington, MA 02421–3136; *telephone:* 781–674–7374; *facsimile:* 781–674–2906; or *e-mail: meetings@erg.com* (*subject line:* DCM peer review workshop).

SUPPLEMENTARY INFORMATION:

I. Information about IRIS

EPA's IRIS is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemical substances found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities. The IRIS database contains information for more than 540 chemical substances that can be used to support the first two steps (hazard identification and dose-response evaluation) of the risk assessment process. When supported by available data, IRIS provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic noncancer health effects and cancer assessments. Combined with specific exposure information, government and private entities use IRIS to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

Dated: August 11, 2010.

David Bussard,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2010–20308 Filed 8–16–10; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2010–0032]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: Application for Issuing Bank Credit Limit (IBCL) under Letter of Credit Insurance Policy.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Application for Issuing Bank Credit Limit (IBCL) under Letter of Credit Insurance Policy will be used to determine the eligibility of the issuing bank and the transaction for Export-Import Bank assistance under its insurance program. Export-Import Bank customers will be able to submit this form on paper or electronically.

The Export-Import Bank has made changes to incorporate new information in the Certification and Notice sections of this form to clarify and expand to encompass broader anti-corruption certifications. In the Certification and Notice sections we rewrote some of the language for clarification, we corrected references to the debarment list, and we added references to the OFAC and the EPLS system. In addition, we clarified two questions about the amount of U.S. employment to be supported by this transaction.

DATES: Comments should be received on or before October 18, 2010 to be assured of consideration.

ADDRESSES: Comments maybe submitted electronically on *www.regulations.gov* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave., NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 92–36 Application for Issuing Bank Credit Limit under Letter of Credit Insurance Policy.

OMB Number: 3048–0016.

Type of Review: Regular.

Need and Use: The Application for Issuing Bank Credit Limit under Letter of Credit Insurance Policy will be used to determine the eligibility of the issuing bank and the transaction for Export-Import Bank assistance under its insurance program.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2010–20289 Filed 8–16–10; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2010–0033]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: Application for Short-Term Multi-buyer Export Credit Insurance Policy.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Application for Short-Term Multi-buyer Export Credit Insurance Policy will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its insurance program. Export-Import Bank customers will be able to submit this form on paper or electronically.

The Export-Import Bank has made changes to incorporate new information in the Certification and Notice sections of this form to clarify and expand to encompass broader anti-corruption certifications. In the Certification and Notice sections we rewrote some of the language for clarification, we corrected references to the debarment list, and we added references to the OFAC and the EPLS system. In addition, we clarified two questions about the amount of U.S. employment to be supported by this transaction and added a question to implement greater flexibility in our U.S. content requirements.

DATES: Comments should be received on or before October 18, 2010 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave., NW. Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 92–50 Application for Short-Term Multi-buyer Export Credit Insurance Policy .

OMB Number: 3048–0023.

Type of Review: Regular.

Need and Use: The Application for Short-Term Multi-buyer Export Credit Insurance Policy will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its insurance program.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2010–20272 Filed 8–16–10; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before October 18, 2010.

ADDRESSES: You may submit comments, identified by FR 29a,b, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the OMB control number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869).

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

Report title: Compensation and Salary Surveys.

Agency form number: FR 29a,b.

OMB control number: 7100–0290.

Frequency: FR 29a, annually; FR 29b, on occasion.

Reporters: Employers considered competitors for Federal Reserve employees.

Estimated annual reporting hours: FR 29a, 210 hours; FR 29b, 50 hours.

Estimated average hours per response: FR 29a, 6 hours; FR 29b, 1 hour.

Number of respondents: 45.

General description of report: This information collection is authorized pursuant sections 10(4) and 11(1) of the Federal Reserve Act, (12 U.S.C. section 244 and 248(1)) and is voluntary. These statutory provisions grant the Federal Reserve Board independence to determine its employees' salaries and compensation. Individual respondent data are regarded as confidential under the Freedom of Information Act (FOIA) (5 U.S.C 552 (b)(4) and (6)). Any aggregate reports produced are not subject to FOIA exemptions.

Abstract: The Federal Reserve along with other Financial Institutions Reforms, Recovery and Enforcement Act of 1989 (FIRREA) agencies [1] conduct the

[1] For purposes of this proposal the FIRREA agencies consist of: The Federal Reserve Board, the Office of the Comptroller of the Currency, the

Continued

FR 29a survey jointly. The FR 29b is collected by Board staff. The FR 29a,b collect information on salaries, employee compensation policies, and other employee programs from employers that are considered competitors of the Federal Reserve Board. The data from the surveys primarily are used to determine the appropriate salary structure and salary adjustments for Federal Reserve Board employees so that salary ranges are competitive with other organizations offering similar jobs.

Board of Governors of the Federal Reserve System, August 12, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–20283 Filed 8–16–10; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 1, 2010.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Bart R. Kirschoff, Hollis, Oklahoma, individually, and Kim A. Kirchoff, Wimberly, Texas, both as members of the Kirchoff family group; to retain control of Great Plains Bancshares, Inc., Hollis, Oklahoma, and thereby indirectly retain control of Great Plains National Bank, Elk City, Oklahoma.

Board of Governors of the Federal Reserve System, August 12, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–20279 Filed 8–16–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 10, 2010.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. The Adirondack Trust Company Employee Stock Ownership Trust, Saratoga Springs, New York; to acquire 50 additional voting shares of 473 Broadway Holding Corporation, and to acquire 1,500 additional voting shares of The Adirondack Trust Company (the "Bank"), both of Saratoga Springs, New York, and to retain an additional 108 voting shares of the Bank.

B. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. RBB Bancorp, Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of Royal Business Bank, Los Angeles, California.

Board of Governors of the Federal Reserve System, August 12, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–20278 Filed 8–16–10; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Evaluation of the SOAR Technical Assistance Effort—NEW

SAMHSA will evaluate the implementation and outcomes of the Supplemental Security Income (SSI)/Social Security Disability Income (SSDI) Outreach Access and Recovery (SOAR) technical assistance (TA) effort. The SSI and SSDI programs provide cash

Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, the Commodities Futures Trading Commission, the Farm Credit Administration, and the Securities and Exchange Commission.

assistance to individuals with qualifying disabilities. SOAR aims to increase access to these programs among people who are homeless and thereby improve their quality of life. The crux of the effort is the provision of TA to help states and local communities develop strategies to increase the quality of SSI/SSDI applications homeless individuals submit.

To evaluate SOAR's implementation and outputs, SAMHSA will collect data from the following sources:

- In-person interviews with state and local SOAR stakeholders;
- A social network survey of state and local SOAR stakeholders;
- Focus groups with participants of in-person SOAR trainings;
- Evaluative materials completed by participants of in-person SOAR trainings, including pre/post training evaluation forms and a customer satisfaction survey;
- Evaluative materials completed by users of web-based SOAR trainings, including pre/post training evaluation screens and an online customer satisfaction survey.

The first four data collections will be conducted in eight local communities in eight different states that will begin receiving federally-funded SOAR TA for the first time in 2010. For the fifth data collection, SAMHSA will collect data from pre- and post-training evaluation forms and a customer satisfaction survey nationwide for users of a newly developed web-based SOAR training.

Respondents to the in-person interviews and social network survey will include an average of 15 state and local SOAR stakeholders in each of the eight local communities included in the study (for a total of 120 respondents). Stakeholders include state and local SOAR leaders, administrators and staff from Social Security Administration field offices and state Disability Determination Services offices, SOAR trainers, and administrators and staff from state mental health agencies, housing and other public assistance agencies, homeless service providers, and community-based agencies. Focus group respondents will include an average of 11 individuals who participated in an in-person SOAR training in each of the eight local communities included in the study (for a total of 88 respondents). The majority of respondents will be staff from community-based agencies. Respondents to the in-person training evaluative materials include an average of 15 individuals who participated in the first in-person training in each of the eight local communities included in the study (for a total of 120 respondents). Respondents to the web-based training evaluative materials will be the universe of users who ever log on to the web-based training and receive a user identification number, regardless of in which state or community users reside. SAMHSA anticipates that 2,706 users will access the web-based training in lieu of attending an in-person training. These users will complete all three components of the evaluative materials. In addition, SAMHSA anticipates that 2,050 users will access the web-based training to refresh or supplement what they learned in an in-person training. These users will complete only the first portion of the pre-training evaluation form, which asks for basic background information about the user.

BURDEN ESTIMATES

Data collection activity	Estimated number of respondents	Responses per respondent	Total responses	Average hours per response	Total hour burden
In-person interviews	120	1	120	1	120
Social network survey	120	1	120	.17	20.4
Focus groups	88	1	88	1.5	132
Subtotal	328	—	328	—	272.4
In-person Training Evaluative Materials					
Pre-training evaluation form	120	1	120	.17	20.4
Post-training evaluation form	120	1	120	.17	20.4
Customer satisfaction survey	120	1	120	.17	20.4
Subtotal	120	—	360	—	61.2
Web-based Training Evaluative Materials					
Pre-training evaluation form	2,706	1	2,706	.17	460
Post-training evaluation form	2,706	1	2,706	.17	460
Customer satisfaction survey	2,706	1	2,706	.17	460
Background form	2,050	1	2,050	.10	205
Subtotal	4,756	—	10,168	—	1,585
Total	5,084	—	10,856	—	1918.6

SAMHSA will use the information from the evaluation to demonstrate the effectiveness of the SOAR TA effort and determine whether it is worthy of future investment. The evaluation also is designed to enable a review of SOAR for inclusion in SAMHSA's National Registry of Evidence-based Programs and Practices (NREPP). In addition, results from the SOAR evaluation will inform future planning around Government Performance and Results Act (GPRA) reporting. SAMHSA anticipates producing a final evaluation report that will be made available to the public.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *AND* e-mail a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: August 10, 2010.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. 2010–20262 Filed 8–16–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Proposed Project: Multiplier Surveys—NEW

While all SAMHSA programming is intended to support the SAMHSA vision of a life in the community for everyone, and its strategic goals of accountability, capacity, and effectiveness, there has been little systematic investigation of the long-range impact of different categories of discretionary programs. The Multiplier Surveys will inform SAMHSA policy and budget development by determining which types of investments are most appropriate for achieving different policy objectives, including sustainability of the program or its intended outcomes after Federal funding ends. It also seeks to determine which program types or factors are best at achieving certain objectives after the conclusion of Federal funding, such as capacity improvement, system change, sustainability and influence on other programs. Findings will be used to make recommendations to SAMHSA management to better inform policy and budget development and to determine which types of investments are most appropriate for achieving different policy objectives.

To achieve the goals of the Multiplier Surveys four programs have been chosen from each of SAMHSA's three Centers. Four Project Directors from each of the 12 programs (48 respondents in all), whose Federal funding ended no later than September 30, 2008 will be interviewed by telephone to determine how the project was sustained after Federal funding ended and what factors contributed to its sustainability.

In addition, all grantees from each of the 12 selected programs meeting inclusion criteria will be invited via e-mail to complete a short on-line survey about their project and how/if it was sustained after Federal funding ended. A 20 percent response rate or about 100 respondents to the on-line survey is expected.

The estimated response burden is as follows:

Information source	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hours
Project Director	48	1	48	1.25	60
Web-based Survey	100	1	100	.75	75
Total	148	.....	148	.....	135

Written comments and recommendations concerning the proposed information collection should be sent by September 16, 2010 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–5806.

Dated: August 10, 2010.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. 2010–20261 Filed 8–16–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0418]

Agency Information Collection Activities; Proposed Collection; Comment Request; Institutional Review Boards

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 recordkeeping requirements for institutional review boards (IRBs).

DATES: Submit either electronic or written comments on the collection of information by October 18, 2010.

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: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., Pl50–400B, Rockville, MD 20850, 301–796–3792, e-mail: *Elizabeth.Berbakos@fda.hhs.gov*.

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.

Institutional Review Boards—21 CFR 56.115 (OMB Control Number 0910–0130)—Extension

When reviewing clinical research studies regulated by FDA, IRBs are required to create and maintain records describing their operations, and make the records available for FDA inspection when requested. These records include: Written procedures describing the structure and membership of the IRB and the methods that the IRB will use in performing its functions; the research protocols, informed consent documents, progress reports, and reports of injuries to subjects submitted by investigators to the IRB; minutes of meetings showing attendance, votes, and decisions made by the IRB, the number of votes on each decision for, against, and abstaining, and the basis for requiring changes in research or for disapproving research; records of continuing review activities; copies of all correspondence between investigators and the IRB; statement of significant new findings provided to subjects of the research; and a list of IRB members by name, showing each member's earned degrees, representative capacity, and experience in sufficient detail to describe each member's contributions to the IRB's deliberations, and any employment relationship between each member and the IRB's institution. This information is used by FDA in conducting audit inspections of IRBs to determine whether IRBs and clinical investigators are providing adequate protections to human subjects participating in clinical research.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
56.115	2,500	14.6	36,500	100	3,650,000
Total					3,650,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The recordkeeping requirement burden is based on the following: The burden for each of the paragraphs under 21 CFR 56.115 has been considered as one estimated burden. FDA estimates that there are approximately 2,500 IRBs. The IRBs meet on an average of 14.6 times annually. The agency estimates that approximately 100 hours of person-time per meeting are required to meet the requirements of the regulation.

Dated: August 11, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–20273 Filed 8–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Glioblastoma Diagnostics and Therapeutics

Description of Invention: Investigators at the NIH have discovered an Anti-TNF Induced Apoptosis (ATIA) protein, which protects cells against apoptosis. ATIA is highly expressed in glioblastoma and astrocytomas and its inhibition results in increased cell sensitivity to TNF-related apoptosis-inducing ligand induced cell death. Hence, ATIA assays may enable clinicians to effectively stratify patients for appropriate treatment. ATIA exists in a soluble form that can be detected in culture medium of ATIA expressing cells indicating it could be used to develop a non-invasive, blood based diagnostic test such as an ELISA. Glioblastomas and astrocytomas can be diagnosed via MRI and CT scans; however, these scans cannot detect tumor type, *i.e.* glioblastoma vs. medulloblastoma. The investigators found that ATIA is induced in cells under hypoxia conditions. More importantly, knockdown of ATIA in human glioblastoma cells renders cells to apoptosis under hypoxia conditions. Therefore, ATIA is a potential novel therapeutic target for treating human glioblastoma.

Glioblastoma arise from astrocytes, cells that provide neurons structural and metabolic support. Glioblastomas

account for twenty percent of primary brain tumors and fifty percent of astrocytomas. These indications are designated as rare diseases as there is an annual 2–3 newly diagnosed cases of glioblastoma per 100,000 people in the United States whereas the astrocytoma incidence rate is 1.22 cases per 100,000 for individuals aged 0–19 years in the United States.

Applications:

- Blood based diagnostic assays.
- Assay for clinicians to choose effective treatments.
- Therapy to treat human glioblastoma.

Advantages:

- Non-invasive diagnostics.
- Easy, ready to use assays.

Development Status: The technology is currently in the pre-clinical stage of development.

Market: Brain cancer market was worth an estimated $1,094 million in 2009 and expected to reach $1.3 billion by 2016.

Inventor: Zheng-gang Liu (NCI).

Patent Status: PCT Patent Application No. PCT/US2010/36394 filed 27 May 2010 (HHS Reference No. E–178–2009/0–PCT–02).

Licensing Status: Available for licensing.

Licensing Contact: Jennifer Wong; 301–435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, Cell and Cancer Biology Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John Hewes, Ph.D. at 301–435–3131 or hewesj@mail.nih.gov for more information.

Inflammatory Genes and MicroRNA–21 as Biomarkers for Colon Cancer Prognosis

Description of Invention: Colon adenocarcinoma is the leading cause of cancer mortality world-wide and accounts for approximately 50,000 deaths annually in the United States. Adjuvant therapies improve survival for stage III colon cancer patients; however, it remains controversial if stage II patients should be given these therapies. Some stage II patients will benefit from therapy (such as patients with undetectable micro-metastases where surgery will not be curative); but therapy for others will harm quality of life with little therapeutic benefit (such as patients where surgery removed all cancerous tissue and therefore do not need additional therapy). Thus, there is a need to for biomarkers capable of accurately identifying high risk, stage II patients that are suitable for therapeutic intervention.

The investigators have identified an inflammatory gene and microRNA biomarker portfolio that can predict aggressive colon cancer, colon cancer patient survival, and patients that are candidates for adjuvant therapy. These biomarkers provide clinicians with a powerful tool to diagnose colon cancer patients and chose effective treatment methods.

Applications:

- Method to predict aggressive form of colon cancer, especially in stage II cancer patients.
- Method to determine appropriate colon cancer patients for adjuvant therapy.
- Diagnostic arrays.

Advantages:

- Rapid, easy to use arrays to accurately predict colon cancer and patients suitable for adjuvant therapy.
- Method to stratify colon cancer patients for adjuvant therapy to minimize negative side effects.
- Method to identify stage II patients that are likely to have undetectable micro-metastases.

Development Status: The technology is currently in the pre-clinical stage of development.

Market:

- Global cancer market is worth more than eight percent of total global pharmaceutical sales.
- Cancer industry is predicted to expand to $85.3 billion by 2010.

Inventors: Curtis C. Harris and Aaron J. Schetter (NCI).

Relevant Publication: AJ Schetter et al. MicroRNA expression profiles associated with prognosis and therapeutic outcome in colon adenocarcinoma. JAMA. 2008 Jan 30;299(4):425–436. [*PubMed:* 18230780].

Patent Status: PCT Application No. PCT/US09/058425 filed 25 Sep 2009, which published as WO/2010/036924 on 01 Apr 2010 (HHS Reference No. E–314–2008/0–PCT–02).

Licensing Status: Available for licensing.

Licensing Contact: Jennifer Wong; 301–435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The NCI Laboratory of Human. Carcinogenesis is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize cancer biomarkers and therapeutic targets. Please contact *Curtis_Harris@nih.gov* for more information.

Dated: August 11, 2010.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2010–20277 Filed 8–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A Novel Scaffold for Multivalent Display of Ligands

Description of Invention: Multivalent interactions are important in cell attachment, wound healing and immune responses. Such interactions are associated with cancer metastasis, blood clotting and the generation of antibodies from a vaccination. Mimicking multivalent interactions on a synthetic scaffold is challenging especially when large numbers of ligands (such as 5 or more) need to be displayed. There are numerous synthetic scaffolds that have been developed, but there are significant limitations that remain.

Scientists at the NIH have designed a novel multivalent scaffold that can display anywhere from 1 to 200 ligands. This system allows different types of ligands to be displayed in a controlled, spatially-addressable manner. This system uses peptide nucleic acids (PNAs) containing γ-substituted side

chains. PNAs are synthetic molecules that possess the bases derived from DNA. This invention could revolutionize the way in which multivalent display is used in research as well as help make vaccinations or prevent disease.

Applications:

• Controlled interactions ensure only a single stoichiometry is attained.

• Simple access to a wide range of multivalent platforms.

Development Status: Early stage.

Inventors: Daniel Appella *et al.* (NIDDK).

Patent Status: U.S. Provisional Application No. 61/333,442 filed 11 May 2010 (HHS Reference No. E–129–2010/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Charlene Sydnor, PhD; 301–435–4689; *sydnorc@mail.nih.gov.*

Collaborative Research Opportunity: The NIDDK Laboratory of Bioorganic Chemistry is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this novel scaffold or to collaborate on related laboratory interests. Please contact Marguerite J. Miller at 301–496–9003 and/or *millermarg@niddk.nih.gov* for more information.

N-Methanocarba Adenosine Derivatives and Their Dendrimer Conjugates as A_3 Receptor Agonists

Description of Invention: This technology relates to specific (N)-methanocarba adenine nucleosides that have been developed and dendrimers that connect these compounds to create molecules with multiple targets. Dendrimers are essentially repeated molecular branches presenting the core receptor-binding molecules. The compounds synthesized function as agonists and antagonists of a receptor of the G-protein coupled receptor (GPCR) superfamily. In particular, the receptors of interest for this invention include A_3 adenosine receptors and agonists and antagonists of P2Y receptors, such as $P2Y_1$ and $P2Y_{14}$.

Dendrimer conjugates may have one or more advantages, such as increased solubility, reduced toxicity, and improved pharmacokinetic properties. They can also be used to connect other types of molecules without affecting the agonist or antagonists properties. For instance, molecules such as those used for imaging or tracing can be added. Dendrimers can also be used to link more than one type of agonist or antagonist to confer multiple functionalities. This technology provides a novel mechanism to treat a number of disorders related to dysregulation of A_3 adenosine receptors.

Applications:

• Cardiac arrhythmias or ischemia
• Inflammation
• Stroke
• Diabetes
• Asthma
• Cancer
• Imaging

Development Status: Research quantities of compounds have been synthesized and tested for receptor selectivity.

Inventors: Kenneth A Jacobson and Dilip K. Tosh (NIDDK).

Patent Status:

U.S. Provisional Application No. 61/266,084 filed 02 Dec 2009 (HHS Reference No. E–049–2010/0–US–01).

U.S. Provisional Application No. 61/313,961 filed 15 Mar 2010 (HHS Reference No. E–049–2010/1–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Steven Standley, PhD; 301–435–4074; *sstand@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Diabetes and Digestive and Kidney Diseases, Laboratory of Bioorganic Chemistry, Molecular Recognition Section, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Dr. Kenneth Jacobson at *kajacobs@helix.nih.gov* for more information.

Species-Independent A_3 Adenosine Receptor Agonists Which May Be Useful for Treating Ischemia, Controlling Inflammation, and Regulating Cell Proliferation

Description of Invention: This invention claims species-independent agonists of A_3AR, specifically (N)-methanocarba adenine nucleosides and pharmaceutical compositions comprising such nucleosides. The A_3 adenosine receptor (A_3AR) subtype has been linked with helping protect the heart from ischemia, controlling inflammation, and regulating cell proliferation. Agonists of the human A_3AR subtype have been developed that are also selective for the mouse A_3AR while retaining selectivity for the human receptor. This solves a problem for clinical development because animal model testing is important for pre-clinical validation of drug function. Novel agonists have been made that exhibit as much as 6000x selectivity for A_3 versus A_1 in humans while retaining at least 400x selectivity for A_3 versus A_1 in mice. In addition, the molecules of the invention exhibit very low nanomolar affinity. This innovation will not only facilitate moving A_3 agonists into the clinical phase of drug development by being more amenable to animal studies, but also provide much greater selectivity in humans, and thereby potentially fewer side effects than drugs currently undergoing clinical trials.

Applications:

• Cardiac arrhythmias or ischemia
• Inflammation
• Stroke
• Diabetes
• Asthma
• Cancer

Development Status: Research quantities of compounds have been synthesized and tested for receptor selectivity.

Inventors: Kenneth A. Jacobson and Artem Melman (NIDDK).

Publication: A Melman *et al.* Design of (N)-methanocarba adenosine 5'-uronamides as species-independent A_3 receptor-selective agonists. Bioorg Med Chem Lett. 2008 May 1;18(9):2813–2819. [PubMed: 18424135].

Patent Status: PCT Application No. PCT/US09/38026 filed 24 Mar 2009, which published as WO 2009/123881 on 08 Oct 2009 (HHS Reference No. E–140–2008/0–PCT–02).

Licensing Status: Available for licensing.

Licensing Contact: Steven Standley, Ph.D.; 301–435–4074; *sstand@mail.nih.gov.*

Collaborative Research Opportunity: The NIDDK Laboratory of Bioorganic Chemistry is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize A_3 Adenosine Receptor Agonists. Please contact Marguerite J. Miller at 301–496–9003 or millermarg@niddk.nih.gov for more information.

Dated: August 11, 2010.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2010–20274 Filed 8–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0404]

Guidance for Industry on Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Small Entity Compliance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for small business entities entitled "Organ Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Use—Small Entity Compliance Guide." This guidance is intended to help small businesses understand and comply with FDA's regulation entitled "Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Use; Final Monograph" (74 FR 19385, April 29, 2009).[1] The guidance describes the organ-specific labeling requirements in plain language and provides answers to common questions on how to comply with the rule. This guidance was prepared in accordance with the Small Business Regulatory Fairness Act.

DATES: Submit either electronic or written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Arlene Solbeck, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 5426, Silver Spring, MD 20993–0002, 301–796–2090.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a new guidance for small business entities entitled "Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Small Entity Compliance Guide." This small entity compliance guide applies to over-the-counter (OTC) internal analgesic, antipyretic, and antirheumatic (IAAA) drug products that contain acetaminophen or nonsteroidal anti-inflammatory drug ingredients (NSAIDs). The labeling of those products must include specific warnings about the risks of liver injury when using acetaminophen, and stomach bleeding when using nonsteroidal NSAIDs, as well as related information appearing on the principal display panel. Manufacturers must be in compliance with the rule beginning on April 29, 2010.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on organ-specific labeling requirements for OTC IAAA drug products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

[1] As amended November 25, 2009 (74 FR 61512).

Dated: August 5, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–20252 Filed 8–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Time and Date: 1:30 p.m.–3 p.m., September 8, 2010.

Place: Teleconference.

Status: Open to the public. Teleconference access limited only by availability of telephone ports. To participate in the teleconference please dial 1–888–324–7115 and enter conference code 5959790.

Purpose: The Committee is charged with providing advice and guidance to the Secretary, HHS; the Assistant Secretary for Health; the Director, CDC; and the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), regarding: (1) The practice of hospital infection control; strategies for surveillance, prevention, and control of infections (*e.g.,* nosocomial infections), antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters To Be Discussed: The agenda will include a follow up discussion on the *Draft Guideline for the Prevention and Control of Norovirus Gastroenteritis Outbreaks in Healthcare Settings.* Materials for the call will be available on the HICPAC Web site, *http://www.cdc.gov/hicpac,* no later than September 6, 2010.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Michelle King, HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road, NE., Mailstop A–07, Atlanta, Georgia 30333; *E-mail: HICPAC@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: August 10, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2010–20302 Filed 8–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Nanotechnology Administrative Centers Contract Review.

Date: August 20, 2010.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Shelley S Sehnert, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301–435–0303, *ssehnert@nhlbi.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; HLBI Proteomics Administrative Centers Contract Review.

Date: August 20, 2010.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Shelley S Sehnert, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301–435–0303, *ssehnert@nhlbi.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Ancillary Studies in Clinical Trials.

Date: August 25, 2010.

Time: 8 a.m. to 5 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: Chang Sook Kim, PhD, Scientific Review Officer, Review Branch, DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892, 301–435–0287, *carolko@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 4, 2010.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–20291 Filed 8–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Diabetes and Obesity.

Date: August 24, 2010.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Knecht, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: August 10, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–20287 Filed 8–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–1999–D–2955] (formerly Docket No. 1999D–4071)

Draft Revised Guidance for Industry on Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision) VICH GL18(R); Request for Comments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for comments of a draft revised guidance for industry (#100) entitled "Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision) VICH GL18(R)." This draft revised guidance, which updates a final guidance on the same topic for which a notice of availability was published in the **Federal Register** of May 22, 2001 (66 FR 28182) (the 2001 final guidance), has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The guidance is intended to recommend acceptable amounts of residual solvents in new animal drugs (referred to as pharmaceuticals or veterinary medicinal products in this guidance) for the safety of the target animal as well as for the safety of human consumers of products derived from treated food producing animals. It is intended to assist in developing new animal drug applications (referred to as marketing applications in this guidance) submitted

to the European Union, Japan, and the United States.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by October 18, 2010.

ADDRESSES: Submit written requests for single copies of the guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mai Huynh, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8273, *mai.huynh@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonization of Technical Requirements for Approval of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission, European Medicines Evaluation Agency, European Federation of Animal Health, Committee on Veterinary Medicinal Products, the U.S. Food and Drug Administration, the U.S. Department of Agriculture, the Animal Health Institute, the Japanese Veterinary Pharmaceutical Association, the Japanese Association of Veterinary Biologics, and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Four observers are eligible to participate in the VICH Steering Committee: One representative from the government of Australia/New Zealand, one representative from the industry in Australia/New Zealand, one representative from the government of Canada, and one representative from the industry of Canada. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation for Animal Health (IFAH). An IFAH representative also participates in the VICH Steering Committee meetings.

II. Draft Revised Guidance on Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients

In April 2010, the VICH Steering Committee agreed that a draft revised guidance entitled "Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision) VICH GL18(R)" should be made available for public comment. The draft revised guidance is a revision of the 2001 final guidance on the same topic. The draft revised guidance revises the lower PDE (permissible daily exposure) for *N*–Methylpyrrolidone being kept in Class 2 (Table 2 of the draft revised guidance) and for Tetrahydrofuran being placed into Class 2 from Class 3 (Table 3 of the draft revised guidance). The draft revised guidance is a product of the Quality Expert Working Group of the VICH. Comments about this draft will be considered by FDA and the VICH Quality Expert Working Group.

III. Paperwork Reduction Act of 1995

This draft revised guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in sections II–VI of this document have been approved under OMB Control No. 0910–0032.

IV. Significance of Guidance

This draft guidance developed under the VICH process, includes mandatory language that does not describe a statutory or regulatory requirement, as permitted by good guidance practices regulation (21 CFR 10.115(i)(3)). Mandatory language that does not describe a statutory or regulatory requirement will be revised in the final guidance document.

The draft revised VICH guidance (GFI #100) is consistent with the agency's current thinking on this topic. This guidance does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VI. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov*.

Dated: August 9, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–20235 Filed 8–16–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Importation Bond Structure

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension and revision of an existing collection of information: 1651–0050.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the: Importation Bond Structure. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before October 18, 2010, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 7th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Importation Bond Structure.

OMB Number: 1651–0050.

Form Numbers: 301 and 5297.

Abstract: Bonds are used to assure that duties, taxes, charges, penalties, and reimbursable expenses owed to the Government are paid; to facilitate the movement of cargo and conveyances through CBP processing; and to provide legal recourse for the Government for noncompliance with laws and regulations. Any person who is required to post a bond to secure a customs transaction usually submits the bond on CBP Form 301, Customs Bond, to CBP.

CBP proposes to revise CBP Form 301 in order to accurately reflect the changes that have occurred with regard to CBP bonds. Specifically, the revised Form 301 will capture the new types of bonds which have been authorized by law and regulation, as well as better harmonize this form with current and future automation system requirements. Section II of the CBP Form 301 will be revised to specifically cover continuous activity code bonds for Importer Security Filing, Marine Terminal Operator, and Intellectual Property Rights Samples.

Bonds are usually executed by an agent of the surety. The surety company grants authority to the agent via CBP Form 5297, Corporate Surety Power of Attorney. Once this form is filed with CBP, the validity of the authority of the agent executing the bond and the name of the surety can be verified to the surety's grant. The trade community now has the ability to submit the information on CBP Form 5297 via the internet by using Automated Commercial Environment (ACE) portal technology. ACE surety portal account access allows sureties to add, revoke, and change their surety agent powers of attorney electronically. This ACE portal account access is available to any surety who applies for the functionality at *http://www.cbp.gov.*

Bonds are required pursuant to 19 U.S.C.1608, and 1623; 22 U.S.C. 463; 19 CFR Part 113.37 and 113.11. CBP Forms 301 and 5297 are accessible at *http://www.cbp.gov/xp/cgov/toolbox/forms/.*

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours based on revised estimates by CBP.

Type of Review: Extension (with change)

Affected Public: Businesses.

Form 301, Customs Bond

Estimated Number of Respondents: 800,000.

Total Number of Estimated Annual Responses: 800,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 200,000.

Form 5297, Corporate Surety Power of Attorney

Estimated Number of Respondents: 500.

Total Number of Estimated Annual Responses: 500.

Estimated time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 125.

Dated: August 11, 2010.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2010–20314 Filed 8–16–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0783]

Invocation of Sunken Military Craft Act

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard is announcing that a C–130 aircraft which crashed off the coast of California is a sunken military craft. It is therefore prohibited for any person to engage or attempt to engage the aircraft or its contents in any way that disturbs, removes, or injures the aircraft or its contents.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact LCDR Kevin Smith, Office of Aviation Forces, telephone 202–372–2211.

If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On the evening of October 29, 2009, the Coast Guard Air Station Sacramento C–130 aircraft CG 1705 collided with a Marine Corps AH–1W attack helicopter while conducting a search and rescue operation. All seven crewmembers aboard CG 1705 and both crewmembers of the Marine Corps helicopter were killed in the collision. CG 1705 was never recovered and currently rests in approximately 2450 ft of water near position: 32–58.0 N 118–10.10 W. This location now serves as the gravesite and final resting place for the U.S. Coast Guard personnel killed in the crash.

Both the Coast Guard and the Marine Corps undertook independent

administrative investigations of the incident. The Coast Guard issued a Final Action on August 3, 2010, announcing the result of its investigation and ordering actions to prevent similar accidents in the future.

In this notice, the Coast Guard is announcing that the wreckage of CG 1705 is a sunken military craft, and is therefore protected under the Sunken Military Craft Act (10 U.S.C. 113 note; Pub. L. 108–375, Sections 1401–1408) ("the Act"). Pursuant to the Act, no person may engage in or attempt to engage in activity directed at the wreckage of CG 1705 that disturbs, removes, or injures the wreckage or its associated contents. These include the remains and personal effects of the crew of CG 1705.

Pursuant to Section 1404 of the Act, persons found in violation of the Act may be assessed a civil penalty of up to $100,000.

Dated: August 11, 2010.

Michael Emerson,

Captain, U.S. Coast Guard, Chief of Aviation Forces.

[FR Doc. 2010–20388 Filed 8–13–10; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0088]

Towing Safety Advisory Committee; Meetings

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The Towing Safety Advisory Committee and its working group on the Revision of Navigation and Vessel Inspection Circular 04–01 will meet in Pittsburgh, PA. The Committee will also discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. All meetings will be open to the public.

DATES: The working group will meet on Wednesday, September 1, 2010, from 8:30 a.m. to 4:30 p.m. The full Committee will meet on Thursday, September 2, 2010, from 8:30 a.m. to 4 p.m. These meetings may close early if all business is completed. Written material and requests to make oral presentations at the meetings should reach the Coast Guard on or before August 24, 2010. Requests to have a copy of your material distributed to each member of the Committee or working groups should reach the Coast Guard electronically on or before August 24, 2010.

ADDRESSES: The meetings will be held at the Doubletree Hotel and Suites Pittsburgh City Center, One Bigelow Square, Pittsburgh, PA 15219. *Phone:* 1–412–281–5800, *Toll-free:* 1–800–222–8733. The nearest large commercial airport is Pittsburgh International Airport (PIT). Information on and directions to the Doubletree Hotel and Suites may be found on its Web site at *http://www.pittsburghcitycenter.doubletree.com.*

Send written material and requests to make oral presentations to the Towing Safety Advisory Committee (TSAC) Alternate Designated Federal Officer (ADFO), identified in the **FOR FURTHER INFORMATION CONTACT** section below. This notice is available on the Internet at *http://www.regulations.gov* under the docket number USCG–2010–0088.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Harmon, ADFO, TSAC; U.S. Coast Guard Headquarters, CG–5222; 2100 Second Street, SW., STOP 7126; Washington, DC 20593–7126. Telephone (202) 372–1427, fax (202) 372–1926, or e-mail at: *Michael.J.Harmon@USCG.MIL.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463)]. This Committee is established in accordance with and operates under the provisions of the FACA. It was established under the authority of 33 U.S.C. 1231a, and advises the Secretary of the Department of Homeland Security (DHS) on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. TSAC advises, consults with, and makes recommendations reflecting the Committee's independent judgment to the Secretary on matters and actions concerning shallow-draft inland and coastal waterway navigation and towing safety. TSAC may complete specific assignments such as studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and/or with State and local government jurisdictions in compliance with FACA.

Agenda of Meetings

Navigation and Vessel Inspection Circular (NVIC) 04–01 Working Group. The agenda for the working group is as follows:

(1) Review the current draft proposal, and continue discussions on possible revisions to, NVIC 04–01 "Licensing and Manning for Officers of Towing Vessels" (The current version of the NVIC can be viewed at *http://www.uscg.mil/hq/cg5/nvic/2000s.ASP#2001.*);

(2) Barge Fleeting and Lighting Problems;

(3) Review proposals on licenses for personnel aboard assist vessels;

(4) Discuss lessons learned from the T/V Elizabeth M casualty and

(5) Continue work on Task Statement 08–01 Licensing and Manning for Officers of Towing Vessels (a copy of the amended Task Statement 08–01 is available in the docket where listed under **ADDRESSES**), including the enclosures on the Towing Officer Assessment Records (TOARs).

Towing Safety Advisory Committee. The tentative agenda for the Committee is to receive information and updates, and to discuss the following (will be available for the public review 30 days following the close of the meeting and can be accessed from the Coast Guard Homeport Web site *http://homeport.uscg.mil.*)

(1) Commercial/Recreational Boating Interface (TSAC Acting Chairman).

(2) Work Group Report on the Review and Recommendations for the Revision of NVIC 04–01 "Licensing and Manning for Officers of Towing Vessels;"

(3) Sub-Working Group on Assistance Towing Report on the Review and Recommendations for the Revision of NVIC 04–01, Licensing and Manning for Officers of Towing Vessels;

(4) National Maritime Center (NMC) activities (NMC Commanding Officer);

(5) Transportation Worker Identification Credential (TWIC) (CG–5422 Boating Safety);

(6) Office of Vessel Activities information (CG–5431 Office of Vessel activities), and the Towing Vessel National Center of Expertise (Towing Vessel National Center of Expertise); and

(7) Processes and procedures of the Coast Guard Marine Investigations and Casualty Analysis Branch (CG–545) (Captain Fish)

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is complete. At the Chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the ADFO, listed above in the **FOR FURTHER INFORMATION CONTACT** section, no later than August 24, 2010. Written material (20 copies) for distribution at a meeting should reach the Coast Guard no later than August 24, 2010. If you would like a copy of your material distributed to each member of the Committee or Working Groups in advance of a meeting, please submit it electronically

to the ADFO, for e-mail distribution, no later than August 24, 2010. Also at the Chair's discretion, members of the public may present comment at the end of the Public Meeting. Please understand that the Committee's schedule may be quite demanding and time for public comment may be limited.

Minutes

Minutes from the meeting will be available for the public review 30 days following the close of the meeting and can be accessed from the Coast Guard Homeport Web site *http://homeport.uscg.mil*.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the ADFO as soon as possible.

Dated: August 5, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2010–20251 Filed 8–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LL WO31000–L13100000.PP0000–24–1A]

Extension of Approval of Information Collection, OMB Control Number 1004–0196

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request approval to continue the collection of information from operators and operating rights owners in the National Petroleum Reserve—Alaska (NPRA). This information collection activity was previously approved by the Office of Management and Budget (OMB), and was assigned control number 1004–0196.

DATES: Submit comments on the proposed information collection by October 18, 2010.

ADDRESSES: Comments may be mailed to U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401-LS, 1849 C St., NW., Washington, DC 20240. Comments may also be submitted by fax to Jean Sonneman at 202–912–7102 or electronically to *Jean_Sonneman@blm.gov*. Please indicate "Attention: 1004–0196" regardless of the form of comment.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact Barbara Gamble, Division of Fluid Minerals, at 202–912–7148. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to leave a message for Ms. Gamble.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8 (d) and 1320.12(a)). This notice identifies an information collection that the BLM will be submitting to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

The following information is provided for the information collection:

Title: Oil and Gas Leasing: National Petroleum Reserve—Alaska (43 CFR Part 3130).

Forms: There are no forms associated with control number 1004–0196.

OMB Control Number: 1004–0196.

Abstract:

Frequency of Collection: On occasion.

Estimated Number and Description of Respondents: There are 3 operators and owners of operating rights on the NPRA. The information required by 43 CFR part 3130 covers a range of activities, and a specific operator or owner of operating rights might not be required to provide information each year. While the BLM does not necessarily receive each type of information every year, one response annually is estimated for each of the 20 aspects of this information collection in order to analyze the burdens.

Estimated Reporting and Recordkeeping "Hour" Burden: The estimated annual burden for this collection is 217.5 hours. The following chart details the individual components and respective hour burden estimates of this information collection request:

Information collection (43 CFR)	Requirement	Hours per response	Number of respondents	Total burden hours
3133.4	Royalty Reduction	16	1	16
3135.3	Suspension of operations	4	1	4
3135.6	Notification of operations	0.25	1	0.25
3137.23	Unit designation	80	1	80
3137.25	Notification of unit approval	1	1	1
3137.52	Certification for modification	4	1	4
3137.60	Acceptable bonding	0.5	1	0.5
3137.61	Change of unit operator	0.75	1	0.75
3137.70	Certification of unit obligation	2	1	2
3137.71	Certification of continuing development	2	1	2
3137.84	Productivity for a PA	12	1	12
3137.87	Unleased tracts	3	1	3
3137.88	Notification of productivity	0.5	1	0.5
3137.91	Notification of productivity for non-unit well	0.5	1	0.5
3137.92	Production information	1	1	1
3137.111	Lease extension	3	1	3

Information collection (43 CFR)	Requirement	Hours per response	Number of respondents	Total burden hours
3137.112	Inability to conduct operations activities	2	1	2
3137.130	Unit termination	1	1	1
3137.135	Impact mitigation	4	1	4
3138.11	Storage agreement	80	1	80
Totals			20	217.5

Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Jean Sonneman,

Acting Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2010–20244 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Leases and Permits on Trust or Restricted Land; Request for Comments

AGENCIES: Bureau of Indian Affairs, Interior.

ACTION: Notice of Submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting the collection of information for leases and permits on trust and restricted land pursuant to 25 CFR part 162 to the Office of Management and Budget (OMB) for renewal. The information collection is currently authorized by OMB Control Number 1076–0155, which expires August 31, 2010.

DATES: Interested persons are invited to submit comments on or before *September 16, 2010.*

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an e-mail to: *OIRA_DOCKET@ omb.eop.gov.* Please send a copy of your comments to Ben Burshia, Bureau of Indian Affairs, Division of Real Estate Services, Mail Stop 4639–MIB, 1849 C Street, NW., Washington, DC 20240; *facsimile:* (202) 219–1195; *e-mail: Ben.Burshia@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Ben Burshia (202) 208–7737.

SUPPLEMENTARY INFORMATION:

I. Abstract

BIA is seeking renewal of the approval for the information collection conducted under 25 CFR 162, Leases and Permits, for the review and approval of leases and permits on land the United States holds in trust or restricted status for individual Indians and Indian tribes. This information collection allows BIA to review applications for leases and permits, modifications, and assignments and to determine:

(a) Whether or not a lease may be approved or granted;

(b) The value of each lease;

(c) The appropriate compensation to landowners; and

(d) Provisions for violations of trespass.

Approval for this collection expires August 31, 2010. No third party notification or public disclosure burden is associated with this collection. There is no change to the approved burden hours for this information collection.

II. Request for Comments

The BIA requests that you send your comments on this collection to the locations listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section during the hours of 9 a.m.–5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0155.

Title: Leases and Permits, 25 CFR 162.

Brief Description of Collection: This collection of information is being renewed with substantially no change. Generally trust and restricted land may be leased by Indian land owners, with the approval of the Secretary of the Interior, except when specified by statute. Submission of this information allows BIA to review applications for obtaining, modifying and assigning leases and permits of land that the United States holds in trust or restricted status for individual Indians and Indian tribes. The information is used to determine approval of a lease, amendment, assignment, sublease, mortgage or related document. Response is required to obtain a benefit.

Type of Review: Extension without change of a currently approved collection.

Respondents: Individual Indians and Indian tribes seeking to lease their trust or restricted land and businesses that lease trust and restricted land.

Number of Respondents: 14,500.

Total Number of Responses: 121,140.

Frequency of Response: One approval per lease, other collections occur fewer than once per lease, on average, upon request for modification or assignment or upon a trespass violation.

Estimated Time per Response: Ranges from 15 minutes to 3 hours.

Estimated Total Annual Burden: 106,065 hours.

Total Annual Fees from Respondents: BIA collects fees for processing submitted documents, as set forth in section 162.241 or section 162.616. The minimum administrative fee is $10.00 and the maximum administrative fee is $500.00. The average total administrative fees collected is $250.00 of which is collected approximately 7,252 times, totaling $1,813,000.

Dated: August 10, 2010.

Alvin Foster,

Acting Chief Information Officer—Indian Affairs.

[FR Doc. 2010–20294 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[INT–FES 10–43]

Minidoka Dam Spillway Replacement, Minidoka County, ID

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) is notifying the public that it has prepared a FEIS on the proposed Minidoka Dam Spillway Replacement. The U.S. Fish and Wildlife Service (Department of Interior) and Rural Development (Department of Agriculture) are cooperating agencies under NEPA. Alternatives considered in the FEIS are the No Action, as required under NEPA; total replacement of the spillway and headgate structures; and replacement of just the spillway. Total replacement of the spillway and headgate structures is the preferred alternative. Proposed changes in operations following construction are also evaluated, as is designation of special use areas. Reclamation published a Draft EIS in the **Federal Register** on December 11, 2009 (74 FR 65783) with a public comment period ending on February 5, 2010. The Final EIS includes written responses to all public comments on the Draft EIS. Revisions were made in the FEIS to incorporate responses to comments. In response to comments an adaptive management approach, which includes monitoring of effects resulting from changes in operations, has been added and proposed changes to operations will be made over a 4-year period. These revisions do not significantly change the analysis or results presented in the Draft EIS. However, if monitoring under the adaptive management approach shows different impacts than are documented in this FEIS, and changes to proposed operations (as discussed in this FEIS) are made as a result of monitoring, additional NEPA compliance will be conducted to document those changes and/or impacts.

DATES: Reclamation will not make a decision on the proposed action until at least 30 days after filing of the FEIS with the Environmental Protection Agency. After the 30-day waiting period, Reclamation will complete a Record of Decision. The Record of Decision will identify the selected action for implementation and will discuss factors and rationale used in making the decision.

ADDRESSES: Bureau of Reclamation, Snake River Area Office, Attention: Allyn Meuleman, Activity Manager, 230 Collins Road, Boise, ID 83702–4520. Comments may also be submitted electronically to *minidoka_dam_eis@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Allyn Meuleman, (208) 383–2258, fax: (208) 383–2237 or at the above address. The FEIS and other information on this project can be found at: *http://www.usbr.gov/pn/programs/eis/minidokadam/index.html.*

SUPPLEMENTARY INFORMATION: Minidoka Dam impounds Lake Walcott and is a feature of Reclamation's Minidoka Project. They are located on the main stem Snake River about 18 miles northeast from the city of Burley, ID within the Minidoka Wildlife Refuge. After over 103 years of continued use, the over 2000-foot long concrete spillway at the Minidoka Dam has reached the end of its functional lifespan. The concrete that forms the spillway crest and the piers of the pier-and-stoplog structure shows extensive visible deterioration at numerous locations. In addition, the potential for ice damage to the stoplog piers requires that reservoir water levels be dropped each winter. The headgate structures at the North Side Canal and South Side Canal also show serious concrete deterioration similar to that seen along the spillway. The current conditions of the Minidoka Dam spillway and headgate structures present increasingly difficult reliability and maintenance problems. If structural problems are not corrected there is potential of partial or complete failure of the spillway and headgates. If these failures occur, Reclamation may not be able to meet contractual obligations for water delivery, power generation and Reclamation's commitments to deliver flow augmentation water under the Nez Perce Settlement Agreement and the Endangered Species Act.

Public Review Locations:

The FEIS is available for public inspection at the following locations:

- Bureau of Reclamation, Pacific Northwest Regional Office, 1150 N Curtis Road, Boise, ID.
- Bureau of Reclamation, Snake River Area Office, 230 Collins Road, Boise, ID.
- Bureau of Reclamation, Upper Snake Field Office, 1359 Hansen Avenue, Burley, ID.

Timothy L. Personius,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 2010–20284 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2010–N116; BAC–4311–K9–S3]

Final Comprehensive Conservation Plan; John Hay National Wildlife Refuge, Merrimack County, NH

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for John Hay National Wildlife Refuge (NWR). In this final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCP and FONSI by any of the following methods. You may request a hard copy or CD–ROM.

Agency Web Site: Download a copy of the document(s) at *http://www.fws.gov/northeast/planning/JohnHay/ccphome.html.*

Electronic mail: northeastplanning@fws.gov. Include "John Hay final CCP" in the subject line of the message.

U.S. Postal Service: Silvio O. Conte National Fish and Wildlife Refuge Complex, 103 East Plumtree Road, Sunderland, MA 01375.

In-Person Viewing or Pickup: Call 413–548–8002 to make an appointment during regular business hours at 103 East Plumtree Road, Sunderland, Massachusetts.

Facsimile: 413–548–9725.

FOR FURTHER INFORMATION CONTACT: Andrew French, Project Leader, Silvio

O. Conte National Fish and Wildlife Refuge, 103 East Plumtree Road, Sunderland, MA 01375; *phone:* 413–548–8002; *facsimile:* 413–548–9725; *electronic mail: andrew_french@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for John Hay NWR. We started this plan's development through a notice in the **Federal Register** (73 FR 76376) on December 16, 2008. We released the draft CCP/EA to the public, announcing and requesting comments in a notice of availability in the **Federal Register** (75 FR 7287) on February 18, 2010.

John Hay NWR was established as a migratory bird and wildlife reservation in 1972. Alice Hay donated the 164-acre summer estate of John Hay to the Service. From 1987 to 2008, the refuge was cooperatively managed by several partners, including the New Hampshire State Parks, and then The Fells, a non-profit organization dedicated to maintaining the John Hay estate. In 2008, the refuge transferred 84 acres containing the estate buildings and grounds to The Fells and retained approximately 80 forested acres on the shores of Lake Sunapee in Newbury, New Hampshire, as John Hay NWR. In exchange for this land transfer, 727 (+/-) acres were appended to Umbagog NWR. Refuge property extends to the normal high-water line. Therefore, when we refer to Service ownership or describe shoreline refuge management actions, we generally mean those areas above the normal high-water line.

We announce our decision and the availability of the FONSI for the final CCP for John Hay NWR in accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the draft CCP/EA.

The CCP will guide us in managing and administering John Hay NWR for the next 15 years. Alternative B, as we described in the draft CCP/EA, is the foundation for the final CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

CCP Alternatives, Including Selected Alternative

Our draft CCP/EA (75 FR 7287) addressed several key issues, including the amount of grasslands to manage, other priority habitat types to conserve, land protection and conservation priorities, improving the visibility of the Service and refuge, providing desired facilities and activities, and ways to improve opportunities for public use while ensuring the restoration and protection of priority resources.

To address these issues and develop a plan based on the purposes for establishing the refuge and the vision and goals we identified, three alternatives were evaluated in the EA. The alternatives have some actions in common, such as protecting and monitoring Federally listed species and the regionally significant bald eagle population, controlling invasive plants and wildlife diseases, encouraging research that benefits our resource decisions, protecting cultural resources, and distributing refuge revenue-sharing payments to counties.

Other actions distinguish the alternatives. Alternative A, or the "No Action Alternative," is defined by our current management activities. It serves as the baseline against which to compare the other two alternatives. Our habitat management and visitor services programs would not change under this alternative. We would continue to use the same tools and techniques, and not expand existing facilities. Under Alternative A, we would continue to passively manage refuge lands through collaboration with partners and the Service would have minimal presence. Habitat management would be limited to promoting visitor safety and responding to invasive plants or animals that can impact habitat integrity or priority wildlife. No other active wildlife or habitat management would occur except the existing mowing of the meadow and viewing corridor, which provides early successional forest habitat. Minimal coordination with The Fells, Forest Society, Lake Sunapee Protective Association, and New Hampshire Audubon for wildlife, water quality, and habitat protection would continue on an as-needed basis. The current level and types of visitor services would continue on the refuge. Administration of visitor services, land protection, and biological and law enforcement activities would be handled by existing staff from Silvio O. Conte National Fish and Wildlife Refuge. We would maintain our current minimal visitor services, biological and law enforcement activities, and administration through the Sunderland office as funds and staffing permit.

Alternative B (the Service-preferred alternative) includes an array of management actions that, in our professional judgment, work best toward achieving the purposes of the refuge, our vision and goals for those lands, the NWRS mission, and the goals in State and regional conservation plans. Under Alternative B, we would emphasize the management of specific refuge habitats to support focal species whose habitat needs benefit other species of conservation concern in the Lake Sunapee region. In particular, we would emphasize habitat for priority bird species of conservation concern in the Bird Conservation Region 14 and Partners in Flight Physiographic Area 27 plans, New Hampshire Wildlife Action Plan, Birds of Conservation Concern 2008, and other conservation plans at State and national scales. We would strive to integrate the habitat management objectives for species of concern with maintaining the cultural heritage of the former John Hay estate. In addition, we would focus on making improvements to our visitor services through the addition of seasonal on-site staff, fishing as an approved public use, and a minor expansion of our trail system on the refuge. We would construct an alternate route for the John Hay II Forest Ecology Trail to allow visitors to return to the trailhead without entering The Fells' property, post explanatory signage at the trailhead and at the point of entry to The Fells, install a kiosk at the trailhead and interpretive and informational signs throughout the refuge to incrementally increase visitor awareness of refuge resources, add a spur trail to the fen and back with informational signage on the ecology of fens, and install a footbridge(s) where stream crossing of

Beech Brook is a concern for public safety and stream health. Finally, our biological program would be enhanced through partnerships that would increase our ability to conduct surveys and long-term monitoring.

Alternative C is similar in many respects to Alternative B, but proposes more intensive forest management and wildlife dependent recreation, with a philosophy of maintaining the character and history of the forest, to the extent that it does not compromise the refuge purposes and goals. Generally, white pine (*Pinus strobus*) and other native species would be encouraged to regenerate. The addition of permanent staff would enhance the visitor services program through a much broader array of programming and outreach. In addition to the trail and signage improvements proposed with Alternative B, under Alternative C we would improve the Ecology Trail to be compliant with the Americans with Disabilities Act and lead to a viewing platform at the lakeshore. Both fishing and hunting would be added as new public uses at the refuge. Biological programs would incorporate more surveys and the ability to conduct habitat improvements.

Comments

We solicited comments on the draft CCP/EA for a 30-day period of public review and comment from February 18 to March 22, 2010, and held a public meeting on March 11, 2010, in Newbury, New Hampshire. We received 18 unique letters and oral comments representing individuals, organizations, and State agencies. Appendix F in the final CCP includes a summary of those comments and our responses to them.

Selected Alternative

After considering the comments we received on our draft CCP/EA, we have selected Alternative B for implementation for several reasons. Alternative B comprises the mix of actions that, in our professional judgment, works best towards achieving refuge purposes, our vision and goals, and the goals of other State and regional conservation plans. We also believe it most effectively addresses the key issues raised during the planning process. The basis of our decision is detailed in Appendix G of the CCP.

Public Availability of Documents

You can view or obtain documents as indicated under **ADDRESSES**.

Dated: June 24, 2010.

Sherry W. Morgan,

Acting Regional Director, Northeast Region, U.S. Fish and Wildlife Service.

[FR Doc. 2010–20305 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORP00000.L10200000.PI0000; HAG10–0350]

Notice of Public Meeting, John Day/Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting Notice for the John Day/Snake Resource Advisory Council.

SUMMARY: Pursuant to the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management (BLM) John Day-Snake Resource Advisory Council (JDSRAC) will meet as indicated below.

DATES: The JDSRAC meeting will begin at 8 a.m. (Pacific daylight time) on September 10, 2010.

ADDRESSES: The JDSRAC will meet at the La Grande Ranger Station, Wallowa-Whitman National Forest, located at 3502 Highway 30, La Grande, Oregon 97850. For a copy of material to be discussed or the conference call number, please contact the BLM, Prineville District; information below.

SUPPLEMENTARY INFORMATION: The JDSRAC will conduct a public meeting to discuss several topics, including the Malheur National Forest's travel management alternatives, the Blue Mountain Forest Plan Revision alternatives, and updates on the Boardman to Hemingway Transmission Project and Baker Resource Management Plan. An informational presentation will be given titled 'Endangered Species Act 101.' Prior to the Council meeting, a fieldtrip will occur on September 9, 2010, to follow-up on previous discussions regarding the North End Umatilla Sheep Plan. Public comment is scheduled from 1 p.m. to 1:15 p.m. (Pacific daylight time) September 10, 2010, during the Council Meeting. For a copy of information distributed to JDSRAC members, please contact the BLM Prineville District Office by telephone at (541) 416–6700 or at the address listed below.

FOR FURTHER INFORMATION CONTACT: Christina Lilienthal, Public Affairs Specialist, BLM Prineville District Office, 3050 NE Third, Prineville, Oregon 97754, (541) 416–6889 or e-mail: *christina_lilienthal@blm.gov*.

Deborah Henderson-Norton,

District Manager, BLM Prineville District Office.

[FR Doc. 2010–20231 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC01000 L10200000 XZ0000 LXSIOVHD0000]

Public Meeting of the Central California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central California Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be held Friday, Sept. 17, 2010, at the Harris Ranch, 24505 West Dorris Avenue, Coalinga, CA, beginning at 9 a.m. Time for public comment is reserved from 11 a.m. to noon.

On Sept. 18, RAC members will tour lands managed by BLM's Hollister Field Office west of Interstate 5.

FOR FURTHER INFORMATION CONTACT: BLM Central California District Manager Kathy Hardy, (916) 978–4626; or BLM Public Affairs Officer David Christy, (916) 941–3146.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Central California. At this meeting, agenda topics will include an update on Resource Management Plans and other resource management issues. Additional ongoing business will be discussed by the council. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. The meeting and tour are open to the public, but individuals who wish to attend the tour must provide their own vehicles, food and water. High-clearance vehicles are

recommended for the tour. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: August 6, 2010.

David Christy,

Public Affairs Officer.

[FR Doc. 2010–20303 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children (Advisory Board) will hold its next meeting in Washington, DC. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

DATES: The Advisory Board will meet on Thursday, September 2, 2010, from 8:30 a.m. to 4:30 p.m.; Friday, September 3, 2010, from 8:30 a.m. to 4:30 p.m. and Saturday, September 4, 2010, from 8 a.m. to noon Eastern Time.

ADDRESSES: The Thursday, September 2, 2010, and Friday, September 3, 2010, meetings will be held at 1849 C Street, NW., MS–3609 Main Interior Building, Washington, DC 20240; telephone (202) 208–6123. The Saturday, September 4, meeting will be held at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington, DC 20004; telephone (202) 393–2000.

FOR FURTHER INFORMATION CONTACT: Sue Bement, Designated Federal Official, Bureau of Indian Education, Albuquerque Service Center, Division of Performance and Accountability, 1011 Indian School Road NW., P.O. Box 1088, Suite 332, Albuquerque, NM 87103; telephone number (505) 563–5274.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, the BIE is announcing that the Advisory Board will hold its next meeting in Washington, DC. The Advisory Board was established under the Individuals with Disabilities Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities. The meetings are open to the public.

The following items will be on the agenda:

- Discussion with Mr. Keith Moore, BIE Director.
- Public Comment (via conference call, September 2, 2010, meeting only*).
- Report from Gloria Yepa, Supervisory Education Specialist, BIE, Division of Performance and Accountability.
- National Secondary Transition Technical Assistance Center debriefing.
- Work on BIE Advisory Board Annual Report.
- Discussion and Approval of Charter and By-Laws.
- Schoolwide Positive Behavior Supports Program Presentation by Dr. Jeff Sprague, Gaye Leia King, and Jack Edmo.
- BIE Advisory Board Advice and Recommendations.

* During the September 2, 2010, meeting, time has been set aside for public comment via conference call from 1–1:30 p.m. Eastern Time. The call-in information is: Conference Number 1–888–387–8686, Passcode 4274201.

Dated: August 6, 2010.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. 2010–20293 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Submission for OMB Review; Comment Request.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223 (this is not a toll-free number) and e-mail mail to: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Department of Labor—Employment and Training Administration, Room 10235, Washington, DC 20503, *Telephone:* 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (*see* below).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension of a currently approved information collection.

Title of Collection: Confidentiality and Disclosure of State Unemployment Compensation Information/Income Eligibility Verification System.

OMB Control Number: 1205–0238.

Frequency: Quarterly.

Affected Public: State Governments.

Cost to Federal Government: $0.

Estimated Number of Respondents: 53.

Total Annual Number of Responses: 1,437,897.

Total Annual Burden Hours: 23,964.

Total Hour Burden Cost (operating/maintaining): $0.

Description: The Deficit Reduction Act of 1984 established an income and eligibility verification system (IEVS) for the exchange of information among State agencies administering specific programs. The programs include Temporary Assistance for Needy Families, Medicaid, Food Stamps,

Supplemental Security Income, Unemployment Compensation and any State program approved under Title I, X, XIV, or XVI of the Social Security Act. Under the Act, programs participating must exchange information to the extent that it is useful and productive in verifying eligibility and benefit amounts to assist the child support program and the Secretary of Health and Human Services in verifying eligibility and benefit amounts under Titles II and XVI of the Social Security Act. The Employment and Training Administration's final rule regarding the Confidentiality and Disclosure of State Unemployment Compensation Information, issued in 2006, supports and expands upon the requirements of the 1984 Deficit Reduction Act of 1984 and subsequent regulatory changes.

For additional information, *see* related notice published in the **Federal Register** on May 19, 2010 (Vol. 75, page 28070).

Dated: August 11, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–20275 Filed 8–16–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Submission for OMB Review; Comment Request.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employment and Training Administration, Room 10235, Washington, DC 20503, *Telephone:* 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (*see* below).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension of a currently approved information collection.

Title of Collection: Job Corps Application Data.

OMB Control Number: 1205–0025.

Frequency: On Occasion.

Form Numbers: ETA 652, 655, and 682.

Affected Public: Job Corps Applicants.

Cost to Federal Government: $0.

Estimated Number of Respondents: 92,122.

Total Number of Responses: 92,122.

Total Burden Hours: 18,424.

Total Hour Burden Cost (operating/maintaining): $0.

Description: Information Collection Forms ETA 652, 655 and 682 are used to obtain information for screening and enrollment purposes to determine eligibility for the Job Corps program in accordance with the requirements of the Workforce Investment Act. They concern questions of economic criteria and past behavior problems as well as questions needed to certify an applicant's arrangements for care of a dependent child(ren) while the applicant is in Job Corps. For additional information, *see* related notice published in the **Federal Register** on January 26, 2010, (75 FR 4107).

Dated: August 11, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–20276 Filed 8–16–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Submission for OMB Review; Comment Request.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223 (this is not a toll-free number) and e-mail mail to: *DOL_PRA_PUBLIC @dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Office of Workers' Compensation Programs (OWCP), Room 10235, Washington, DC 20503, *Telephone:* 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), *e-mail: OIRA_submission @omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Office of Workers' Compensation Programs.

Type of Review: Extension.

Title of Collection: Request for State or Federal Workers' Compensation Information.

OMB Control Number: 1240–0032.

Agency Form Number: CM–905.

Affected Public: Federal government; State, Local or Tribal Government.

Cost to Federal Government: $12,599.50.

Total Estimated Number of Respondents: 1,400.

Total Estimated Number of Responses: 1,400.

Total Burden Hours: 350.

Total Hour Burden Cost (operating/maintaining): $658.00.

Description: The Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 901) and 20 CFR 725.535, require that DOL Black Lung benefit payments to a beneficiary for any month be reduced by any other payments of state or federal benefits for workers' compensation due to pneumoconiosis. To ensure compliance with this mandate, DCMWC must collect information regarding the status of any state or Federal workers' compensation claim, including dates of payments, weekly or lump sum amounts paid, and other fees or expenses paid out for this award, such as attorney fees and related expenses associated with pneumoconiosis. Form CM–905 is used to request the amount of those workers' compensation benefits. For additional information, see related notice published in the **Federal Register** on April 23, 2010 (Vol. 75 page 21351).

Dated: August 12, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–20290 Filed 8–16–10; 8:45 am]

BILLING CODE 4510–CK–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting Notice

TIME AND DATE: The Legal Services Corporation Board of Directors' Governance & Performance Review Committee ("Committee") will meet *telephonically* on August 26, 2010. The meeting will begin at 12 p.m., Eastern Time and continue until conclusion of the Committee's agenda.

LOCATION: Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007.

STATUS OF MEETING: Open.

PUBLIC OBSERVATION: For all meetings and portions thereof open to public observation, members of the public that wish to listen to the proceedings may do so by following the telephone call-in directions given below. You are asked to keep your telephone muted to eliminate background noises. From time to time the Chairman may solicit comments from the public.

Call-In Directions for Open Session(s)

♦ Call toll-free number: 1–(866) 451–4981;

♦ When prompted, enter the following numeric pass code: 5907707348;

♦ When connected to the call, please "*MUTE*" your telephone immediately.

Matters To Be Considered

Open Session

1. Approval of agenda.

2. Approval of minutes of the Committee's Open Session meeting of July 30, 2010.

3. Consider and act on the Committee Self Evaluation Protocol and Tool.

4. Public comment.

5. Consider and act on other business.

6. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President for Legal Affairs & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *fr_notice_questions@lsc.gov.*

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Katherine Ward at (202) 295–1500 or *fr_notice_questions @lsc.gov.*

Dated: August 13, 2010.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 2010–20488 Filed 8–13–10; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–087)]

NASA Advisory Council; Aeronautics Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Aeronautics Committee of the NASA Advisory Council. The meeting will be held for the purpose of soliciting from the aeronautics community and other persons research and technical information relevant to program planning.

DATES: Thursday, September 2, 2010, 8 a.m. to 12:30 p.m.; Local Time.

ADDRESSES: NASA Ames Conference Center, Building 3, 500 Severyns Road, NASA Research Park, NASA Ames Research Center (ARC), Moffett Field, CA 95035–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Minor, Aeronautics Research Mission Directorate, National Aeronautics and Space Administration Headquarters, Washington, DC 20546, (202) 358–0566, or *susan.l.minor@nasa.gov.* Any person interested in participating in the meeting by Webex and telephone should contact Ms. Susan L. Minor at (202) 358–0566 for the Web link, toll-free number and passcode.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

- NASA Ames Research Center Overview.
- Airspace Systems Program research and development activities for the Next Generation Air Transportation System (NextGen).
- NextGen Technology Transfer.
- DASHLink tool overview.
- Verification and Validation research and development technical briefing.

It is imperative that these meetings be held on this date to accommodate the scheduling priorities of the key participants. Attendees will be requested to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. U.S. Citizens will need to show valid, officially-issued picture identification such as driver's license to enter into the NASA

Research Park, and must state they are attending the NASA Advisory Council Aeronautics Committee session in the NASA ARC Conference Center. Permanent Resident Aliens will need to show residency status (valid green card) and must state they are attending the session in the NASA ARC Conference Center. All non-U.S. citizens must submit, no less that 10 working days prior to the meeting, their name, current address, citizenship, company affiliation (if applicable) to include address, telephone number, and their title, place of birth, date of birth, U.S. visa information to include type, number, and expiration date, U.S. Social Security Number (if applicable) to Rho Christensen, Protocol Specialist, Office of the Center Director, NASA ARC, Moffett Field, CA. For questions, please contact Ms. Rho Christensen at (650) 604–2476 or *rho.christensen@nasa.gov.*

Dated: August 10, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–20221 Filed 8–16–10; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–088)]

NASA Advisory Council; Science Committee; Planetary Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Tuesday, September 7, 2010, 2 p.m. to 4 p.m. EDT.

ADDRESSES: This meeting will take place telephonically and by WebEx. Any interested person may call the USA toll free conference call number 888–972–7810, pass code PSS, to participate in this meeting by telephone. International callers may contact Ms. Marian Norris for country-specific conference call numbers. The WebEx link is *https://nasa.webex.com/,* meeting number 999031288, and password PS$M33ting.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following topics:

—Planetary Science Division Update;
—Mars Exploration Program Update.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: August 10, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration and Space Administration.

[FR Doc. 2010–20224 Filed 8–16–10; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION ADVISORY

Committee for Social, Behavioral, and Economic Sciences Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (#1171).

Date/Time: September 7, 2010; 8:30 a.m. to 6 p.m. September 8, 2010; 8:30 a.m. to 3 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Stafford II, Room 595, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Ms. Lisa Jones, Office of the Assistant Director, Directorate for Social, Behavioral, and Economic Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 905, Arlington, Virginia 22230, 703–292–8700.

Summary of Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendation to the National Science Foundation on major goals and policies pertaining to Social, Behavioral and Economic Sciences Directorate programs and activities.

Agenda: Updates and discussions on continuing activities Planning for FY 2011 and beyond.

Dated: August 12, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–20253 Filed 8–16–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0002]

Sunshine Act; Notice of Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of August 16, 23, 30, and September 6, 13, 20, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of August 16, 2010

There are no meetings scheduled for the week of August 16, 2010.

Week of August 23, 2010—Tentative

There are no meetings scheduled for the week of August 23, 2010.

Week of August 30, 2010—Tentative

There are no meetings scheduled for the week of August 30, 2010.

Week of September 6, 2010—Tentative

There are no meetings scheduled for the week of September 6, 2010.

Week of September 13, 2010—Tentative

There are no meetings scheduled for the week of September 13, 2010.

Week of September 20, 2010—Tentative

There are no meetings scheduled for the week of September 20, 2010.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301–492–2230, TDD: 301–415–2100, or by e-mail at *angela.bolduc@nrc.gov.*

Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: August 12, 2010.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2010–20465 Filed 8–13–10; 4:15 pm]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before October 18, 2010.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Gail Hepler, Chief 7(a) Program Branch, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gail Hepler, Office of Financial Assistance, 202–205–7530 *gail.hepler@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The information collected through these forms from the small business applications and participating lenders will be used to determine eligibility and to properly evaluate the merits of each loan request based on each criteria as character, capacity, credit collateral, etc. For the purpose of extending credit under the 7(a) loan program.

Title: "Lender Advantage."

Description of Respondents: 7(a) Lenders.

Form Number: 2301, A, B, C.

Annual Responses: 4,000.

Annual Burden: 20,000.

Curtis B. Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. 2010–20309 Filed 8–16–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0123.

Extension: Form 5; OMB Control No. 3235–0362; SEC File No. 270–323.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Under Section 16(a) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*) every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which registered pursuant to Section 12 of the Exchange Act, or who is a director or an officer of the issuer of such security (collectively "reporting persons"), must file statements setting forth their security holdings in the issuer with the Commission. Form 5 (17 CFR 249.105) is an annual statement of beneficial ownership of securities. Approximately 9,000 reporting persons file Form 5 annually and we estimate that it takes approximately one hour to prepare the form for a total of 9,000 annual burden hours.

Written comments are invited on: (a) Whether this proposed collections of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox @sec.gov.*

Dated: August 10, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20257 Filed 8–16–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Form N–CSR; SEC File No. 270–512; OMB Control No. 3235–0570.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–CSR (17 CFR 249.331 and 274.128) is a combined reporting form used by management investment companies to file certified shareholder reports under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("Investment Company Act") and under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). Form N–CSR is to be used for reports under Section 30(b)(2) of the Investment Company Act and Section 13(a) or 15(d) of the Exchange Act, filed pursuant to rule 30b2–1(a) under the Investment Company Act (17 CFR 270.30b2–1(a)). Reports on Form N–CSR are to be filed with the Commission not later than 10 days after the transmission to stockholders of any report that is required to be transmitted to stockholders under rule 30e–1 under the Investment Company Act (17 CFR 270.30e–1).

The Commission estimates that there are 6,640 reports filed on Form N–CSR annually and that the average number of

portfolios referenced in each filing is 3.75. The Commission further estimates that the hour burden for preparing and filing a report on Form N–CSR is 7.62 hours per portfolio. Given that filings on Form N–CSR are filed semi-annually, filings on Form N–CSR require 15.24 hours per portfolio each year. The total annual hour burden for Form N–CSR, therefore, is estimated to be 154,686 hours.

The current total annual cost burden to respondents for outside professionals associated with the collection of data relating to Form N–CSR is currently $1,119,001 and the new total annual cost burden to respondents is estimated to be $1,556,401, representing an increase of $437,400.

The collection of information under Form N–CSR is mandatory. Responses to the collection of information will not be kept confidential. 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 control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 10, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20258 Filed 8–16–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62668; File No. SR–NYSEAMEX–2010–82]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending Rule 15—NYSE Amex Equities To Clarify Use of the Last Sale on the Exchange as the Reference Price and To Define the Reference Price of a Security in the Event That There Is No Last Sale in That Security on the Exchange

August 9, 2010.

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 August 5, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 15—NYSE Amex Equities to clarify use of the last sale on the Exchange as the reference price and to define the reference price of a security in the event that there is no last sale in that security on the Exchange. 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 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 15—NYSE Amex Equities (Pre-Opening Indications) to clarify use of the last sale on the Exchange as the reference price and to define the reference price of a security in the event that there is no last sale in that security on the Exchange.[4]

Current Rule 15—NYSE Amex Equities

Pursuant to Rule 15(a)—NYSE Amex Equities, a DMM must issue a pre-opening indication if the DMM anticipates that the opening transaction will be at a price that represents a change from the security's previous day's closing price on the Exchange of more than the "applicable price change."[5] In the case of an American Depositary Receipt ("ADR"), Rule 15(b)—NYSE Amex Equities sets forth provisions to take into account the closing price of the underlying security on the primary foreign market or a change from parity (as appropriate) in determining the applicable price change.

In addition to the mandatory DMM pre-opening indications, pursuant to Rule 15(c)—NYSE Amex Equities, Exchange systems disseminate a data feed of real-time order imbalances that accumulate prior to the opening transaction on the Exchange and the price at which interest eligible to participate in the opening transaction may be executed in full ("Order Imbalance Information").[6] The Order Imbalance Information data feed includes all interest eligible for execution in the opening transaction of the security in Exchange systems and uses the previous trading day's closing price in the security on the Exchange as the reference price to indicate the number of shares required to open the

[4] The Exchange's corporate affiliate, New York Stock Exchange LLC ("NYSE"), submitted a companion rule filing proposing corresponding amendments to NYSE Rule 15. *See* SR–NYSE–2010–57.

[5] The applicable price change is $0.50 if the closing price of a security on the Exchange is under $20, $1.00 if the closing price of a security on the Exchange is $20–$49.99, $2.00 if the closing price of a security on the Exchange is $50–$99.99, $5.00 if the closing price of a security on the Exchange is $100–$500 and 1.5% if the closing price of a security on the Exchange is above $500.

[6] The Order Imbalance Information is disseminated in accordance with Rule 15(c)(3)—NYSE Amex Equities. If the Exchange decides to change the frequency of the dissemination of the Order Imbalance Information, it will notify the Commission and the market as part of the required rule amendment process.

security with an equal number of shares on the buy side and the sell side. If, however, a mandatory pre-opening indication is published for a security pursuant to the provisions of Rule 15(a)— or (b)— NYSE Amex Equities, the Order Imbalance Information data feed determines the reference price based on a comparison of the bid and offer price of the mandatory pre-opening indication to the last sale on the Exchange.

Rule 15—NYSE Amex Equities does not address determination of the reference price in an IPO or transferred security, and none of the alternatives specified in Rule 15(c)(2)(ii) are applicable as there would be no last sale on the Exchange the previous day.[7]

Proposed Amendments to Rule 15—NYSE Amex Equities

The Exchange believes that publication of mandatory pre-opening indications and dissemination of Order Imbalance Information with respect to IPOs and transferred securities would be beneficial to the market and in the public interest by providing additional information and transparency. Accordingly, the Exchange proposes to amend Rules 15(a)- and (c)- NYSE Amex Equities to include parameters to establish a reference price for IPOs and transferred securities for both the mandatory pre-opening indication and the Order Imbalance Information data feed. Specifically, the Exchange proposes that the reference price be the offering price (*i.e.,* "deal price") in the case of an IPO, or the last reported sale price on the securities market from which the security is being transferred. The Exchange Floor Official who is supervising the opening of the IPO or transferred security shall confirm that the DMM inputs the appropriate reference price for that listing in the Exchange system.

The Exchange also proposes to amend parts (a)(1) and (c)(2) of Rule 15—NYSE Amex Equities to provide that the reference price for pre-opening indications is the last reported sale on the Exchange. The current text of Rule 15—NYSE Amex Equities provides that the "previous day's closing price on the Exchange" will serve as the reference price. Typically, the last reported sale price is the price of the previous day's closing transaction on the Exchange. However, in some instances, there may not be a previous day's closing transaction in a security and, therefore, the last reported sale price prior to the close is the last execution on the Exchange. For example, if the Exchange halted trading in a security prior to 4 p.m. and did not reopen until the following trading day, there would not be any closing transaction in that security. Or, in the case of a thinly traded stock, the stock may not have traded at all on the previous day or the last transaction could have occurred prior to the close of trading at 4 p.m. and, absent any additional interest in the security being sent to the Exchange, there would not be a closing transaction in that security. Therefore, the Exchange proposes to amend Rule 15—NYSE Amex Equities to more accurately describe the reference price. In addition, the last reported sale price on the Exchange would not include any after-hours executions of a security on the Exchange.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change supports the objectives of the Act and will provide a benefit to the market while also protecting investors and the public interest by (i) filling a current gap in Exchange systems and by disseminating pre-opening indication and pre-opening Order Imbalance Information for IPOs and transferred securities, and (ii) more accurately describing the reference price, thereby providing greater transparency to customers prior to the opening transaction.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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:

[7] The Exchange notes that Rule 123D(1)—NYSE Amex Equities currently provides for mandatory pre-opening indications for IPOs if the price change as measured from the offering price meets the requirements for a mandatory indication as defined under the Rule. However, Rule 123D(1) generally pertains to situations involving unusual market activity and indications under that rule are sent to the Consolidated Tape. Rule 15—NYSE Amex Equities is intended to be a standardized process for the issuance of pre-opening indications under more normal market conditions and are available as part of the Exchange's proprietary datafeeds.

[8] Currently, the only after-hours trading permitted on the Exchange is the entry of basket trades in Crossing Session II. The price of an individual security executed as part of a basket trade is not sent to the Consolidated Tape and therefore would not be reported as a last sale on the Exchange.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

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–NYSEAMEX–2010–82 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–NYSEAMEX–2010–82. 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549–1090, on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's 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–NYSEAMEX–2010–82 and should be submitted on or before September 7, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20239 Filed 8–16–10; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62669; File No. SR–NYSE–2010–57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 15 To Clarify Use of the Last Sale on the Exchange as the Reference Price and To Define the Reference Price of a Security in the Event That There Is No Last Sale in That Security on the Exchange

August 9, 2010.

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 August 5, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 15 to clarify use of the last sale on the Exchange as the reference price and to define the reference price of a security in the event that there is no last sale in that security on the Exchange. 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 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 15 (Pre-Opening Indications) to clarify use of the last sale on the Exchange as the reference price and to define the reference price of a security in the event that there is no last sale in that security on the Exchange.[4]

Current NYSE Rule 15

Pursuant to NYSE Rule 15(a), a DMM must issue a pre-opening indication if the DMM anticipates that the opening transaction will be at a price that represents a change from the security's previous day's closing price on the Exchange of more than the "applicable price change."[5] In the case of an American Depositary Receipt ("ADR"), Rule 15(b) sets forth provisions to take into account the closing price of the underlying security on the primary foreign market or a change from parity (as appropriate) in determining the applicable price change.

In addition to the mandatory DMM pre-opening indications, pursuant to Rule 15(c), Exchange systems disseminate a data feed of real-time order imbalances that accumulate prior to the opening transaction on the Exchange and the price at which interest eligible to participate in the opening transaction may be executed in full ("Order Imbalance Information").[6] The Order Imbalance Information data feed includes all interest eligible for execution in the opening transaction of the security in Exchange systems and uses the previous trading day's closing price in the security on the Exchange as the reference price to indicate the number of shares required to open the security with an equal number of shares on the buy side and the sell side. If, however, a mandatory pre-opening indication is published for a security

[4] The Exchange's corporate affiliate, NYSE Amex LLC ("NYSE Amex"), submitted a companion rule filing proposing corresponding amendments to NYSE Amex Equities Rule 15. *See* SR–NYSEAmex–2010–82.

[5] The applicable price change is $0.50 if the closing price of a security on the Exchange is under $20, $1.00 if the closing price of a security on the Exchange is $20–$49.99, $2.00 if the closing price of a security on the Exchange is $50–$99.99, $5.00 if the closing price of a security on the Exchange is $100–$500 and 1.5% if the closing price of a security on the Exchange is above $500.

[6] The Order Imbalance Information is disseminated in accordance with Rule 15(c)(3). If the Exchange decides to change the frequency of the dissemination of the Order Imbalance Information, it will notify the Commission and the market as part of the required rule amendment process.

pursuant to the provisions of Rule 15(a) or (b), the Order Imbalance Information data feed determines the reference price based on a comparison of the bid and offer price of the mandatory pre-opening indication to the last sale on the Exchange.

Rule 15 does not address determination of the reference price in an IPO or transferred security and none of the alternatives specified in Rule 15(c)(2)(ii) are applicable as there would be no last sale on the Exchange the previous day.[7]

Proposed amendments to NYSE Rule 15

The Exchange believes that publication of mandatory pre-opening indications and dissemination of Order Imbalance Information with respect to IPOs and transferred securities would be beneficial to the market and in the public interest by providing additional information and transparency. Accordingly, the Exchange proposes to amend Rules 15(a) and (c) to include parameters to establish a reference price for IPOs and transferred securities for both the mandatory pre-opening indication and the Order Imbalance Information data feed. Specifically, the Exchange proposes that the reference price be the offering price (*i.e.,* "deal price") in the case of an IPO, or the last reported sale price on the securities market from which the security is being transferred. The Exchange Floor Official who is supervising the opening of the IPO or transferred security shall confirm that the DMM inputs the appropriate reference price for that listing in the Exchange system.

The Exchange also proposes to amend parts (a)(1) and (c)(2) of Rule 15 to provide that the reference price for pre-opening indications is the last reported sale on the Exchange. The current text of Rule 15 provides that the "previous day's closing price on the Exchange" will serve as the reference price. Typically, the last reported sale price is the price of the previous day's closing transaction on the Exchange. However, in some instances, there may not be a previous day's closing transaction in a security and, therefore, the last reported sale price prior to the close is the last execution on the Exchange. For example, if the Exchange halted trading in a security prior to 4 p.m. and did not reopen until the following trading day, there would not be any closing transaction in that security. Or, in the case of a thinly traded stock, the stock may not have traded at all on the previous day or the last transaction could have occurred prior to the close of trading at 4 p.m. and, absent any additional interest in the security being sent to the Exchange, there would not be a closing transaction in that security. Therefore, the Exchange proposes to amend Rule 15 to more accurately describe the reference price. In addition, the last reported sale price on the Exchange would not include any after-hours executions of a security on the Exchange.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change supports the objectives of the Act and will provide a benefit to the market while also protecting investors and the public interest by (i) filling a current gap in Exchange systems and by disseminating pre-opening indication and pre-opening Order Imbalance Information for IPOs and transferred securities, and (ii) more accurately describing the reference price, thereby providing greater transparency to customers prior to the opening transaction.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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–NYSE–2010–57 on the subject line.

[7] The Exchange notes that Rule 123D(1) currently provides for mandatory pre-opening indications for IPOs if the price change as measured from the offering price meets the requirements for a mandatory indication as defined under the Rule. However, Rule 123D(1) generally pertains to situations involving unusual market activity and indications under that rule are sent to the Consolidated Tape. Rule 15 is intended to be a standardized process for the issuance of pre-opening indications under more normal market conditions and are available as part of the Exchange's proprietary datafeeds.

[8] Currently, the only after-hours trading permitted on the Exchange is the entry of basket trades in Crossing Session II. The price of an individual security executed as part of a basket trade is not sent to the Consolidated Tape and therefore would not be reported as a last sale on the Exchange.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

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–2010–57. 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549–1090, on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's 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–NYSE–2010–57 and should be submitted on or before September 7, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20240 Filed 8–16–10; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62692; File No. SR–NYSEArca–2010–56]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade Shares of the ETFS Precious Metals Basket Trust

August 11, 2010.

I. Introduction

On June 15, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 list and trade shares ("Shares") of the ETFS Precious Metals Basket Trust ("Trust") pursuant to NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the **Federal Register** on July 8, 2010.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade Shares pursuant to NYSE Arca Equities Rule 8.201, which governs the listing and trading of Commodity-Based Trust Shares. ETFS Services USA LLC is the sponsor of the Trust ("Sponsor"), The Bank of New York Mellon is the trustee of the Trust ("Trustee"), and JPMorgan Chase Bank, N.A. is the custodian of the Trust ("Custodian").

The Shares represent units of fractional undivided beneficial interest in and ownership of the Trust. The investment objective of the Trust is for the Shares to reflect the performance of the price of physical gold, silver, platinum, and palladium in the proportions held by the Trust, less the expenses of the Trust's operations.[4]

The Exchange deems the Shares to be equity securities, which subjects trading in the Shares to the Exchange's existing rules governing the trading of equity securities, and has represented that trading in the Shares on the Exchange will occur in accordance with NYSE Arca Equities Rule 7.34(a). The Exchange has also represented that it has appropriate rules to facilitate transactions in the Shares during all trading sessions.

Additional information regarding the Trust, the Shares, the Trust's investment objectives, strategies, policies, and restrictions, fees and expenses, creation and redemption of Shares, the Bullion markets, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice and in the Registration Statement.[5]

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change to list and trade the Shares of the Fund is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[7] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[8] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be disseminated through the facilities of the Consolidated Tape Association. In addition, the Trust's Web site will provide an intraday indicative value ("IIV") per Share,[9] updated at least every 15 seconds, as calculated by the Exchange or a third

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62402 (June 29, 2010), 75 FR 39292 ("Notice").

[4] *See* the registration statement for the Trust on Form S–1, filed with the Commission on April 29, 2010 (No. 333–164769) ("Registration Statement").

[5] *See supra* notes 3 and 4.

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[9] The IIV is calculated by multiplying the indicative spot price of Bullion by the quantity of Bullion backing each Share as of the last calculation date.

party financial data provider, during the Exchange's Core Trading Session (9:30 a.m. to 4 p.m. E.T.). The Trust's Web site also will provide the following information: (1) The net asset value ("NAV") of the Trust, on a per Share basis, as calculated each business day by the Sponsor and the mid-point of the bid-ask price [10] at the close of trading in relation to such NAV ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Creation Basket Deposit; (4) the Trust's prospectus, and the two most recent reports to stockholders; and (5) the last sale price of the Shares as traded in the US market. Further, the Exchange will make available over the Consolidated Tape trading volume, closing prices and NAV for the Shares from the previous day. There is a considerable amount of Bullion market information available on public Web sites and through professional and subscription services. For example, investors may obtain on a 24-hour basis Bullion pricing information based on the spot price for an ounce of Bullion from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of Bullion and last sale prices of Bullion futures, as well as information about news and developments in the Bullion market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on Bullion prices directly from market participants. Meanwhile, other public Web sites provide information on Bullion, ranging from those specializing in precious metals to sites maintained by major newspapers, such as The Wall Street Journal. In addition, the London AM Fix and London PM Fix are publicly available at no charge at or *http://www.thebulliondesk.com.*

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange states that it will obtain a representation from the Trust that the NAV will be calculated daily and made available to all market participants at the same time.[11] Following the initial 12-month period following commencement of trading, the Exchange will consider the suspending trading in Shares or removing Shares from listing if, among other things: (1) The value of the Bullion is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, Trust, custodian or the Exchange; (2) the Exchange stops providing a hyperlink on its Web site to any such unaffiliated commodity value; or (3) the IIV is no longer made available on at least a 15-second delayed basis.[12] Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it must halt trading on the NYSE Marketplace until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. These may include: (1) The extent to which conditions in the underlying Bullion markets have caused disruptions and/or lack of trading; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.[13]

Further, NYSE Arca Equities Rule 8.201 sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Pursuant to NYSE Arca Equities Rule 8.201(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the applicable underlying Bullion, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker in Commodity-Based Trust Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments.

In support of this proposal, the Exchange has made representations, including the following:

(1) The Shares will be subject to the initial and continued listing criteria under NYSE Arca Equities Rule 8.201.

(2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[14] In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of the ISG.[15]

(3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of Bullion trading during the Core and Late Trading Sessions after the close of the major world Bullion markets; and (6) trading information.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act

[10] The bid-ask price of the Trust is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

[11] *See* e-mail from Timothy J. Malinowski, Senior Director, NYSE Euronext, to Christopher W. Chow, Special Counsel, and Daniel T. Gien, Staff Attorney, Commission, dated July 29, 2010.

[12] *See* NYSE Arca Equities Rules 8.201(e)(2)(iv), (v).

[13] *See* NYSE Arca Equities Rule 7.12.

[14] Pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Bullion, Bullion futures contracts, options on Bullion futures, or any other Bullion derivative, by ETP Holders acting as registered Market Makers.

[15] The Exchange notes that the New York Mercantile Exchange, of which the COMEX is a division, is an ISG member; however, the Tokyo Commodity Exchange, Inc. ("TOCOM") is not an ISG member and the Exchange does not have in place a comprehensive surveillance sharing agreement with such market.

and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–NYSEArca–2010–56) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20256 Filed 8–16–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62602; File No. SR-CBOE-2010-069]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its Minor Rule Violation Plan

July 29, 2010.

Correction

In notice document 2010–19332 beginning on page 47672 in the issue of Friday, August 6, 2010, make the following correction:

On page 47672, in the third column, in the document heading, the date is corrected to read as set forth above.

[FR Doc. C1–2010–19332 Filed 8–16–10; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF STATE

[Public Notice: 7122]

30-Day Notice of Proposed Information Collection: Recording, Reporting, and Data Collection Requirements Under 22 CFR Part 62, the Exchange Visitor Program—Student and Exchange Visitor Information System (SEVIS); Forms DS–3036, DS–3037, and DS–7000, OMB No. 1405–0147

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Recording, Reporting, and Data Collection Requirements Under 22 CFR Part 62 (DS–7000), the Exchange Visitor Program Application (Form DS–3036); and Update of Information on Exchange Visitor Program Sponsor (Form DS–3037).
- *OMB Control Number:* 1405–0147.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Designation, ECA/EC/D.
- *Form Number:* Forms DS–3036, DS–3037 and DS–7000.
- *Respondents:* U.S. government and public and private organizations wishing to become Department of State designated sponsors authorized to conduct exchange visitor programs, and Department of State designated sponsors.
- *Estimated Number of Respondents:* 191,810 (DS–3036—150; DS–3037—1,460; DS–7000—190,200).
- *Estimated Number of Responses:* 1,623,447 (DS–3036—150; DS–3037—2,920; DS–7000—1,620,377).
- *Average Hours Per Response:* DS–3036—8 hours; DS–3037—20 minutes; DS–7000—45 minutes.
- *Total Estimated Burden:* 1,323,260 (DS–3036—1,200 hours; DS–3037—973 hours; DS–7000—1,321,087).
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from August 17, 2010.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. *Attention:* Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Stanley S. Colvin, Deputy Assistant Secretary for Private Sector Exchange, Department of State, 2200 C Street, NW., 5th Floor, Washington, DC 20522–0505, who may be reached on (202) 632–6090, fax at 202–632–2701 or e-mail at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection:

The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J–Visa) under the provisions of the Mutual Educational and Cultural Exchange Act, as amended. The forms have been revised to clarify language used and remove unnecessary data collection.

Methodology:

Access to Forms DS–3036 and DS–3037 are found in the Student and Exchange Visitor Information System (SEVIS).

Dated: August 10, 2010.

Stanley S. Colvin,

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2010–20307 Filed 8–16–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7121]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 8 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Kovac, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2861.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to

[16] 15 U.S.C. 78f(b)(2).

[17] 17 CFR 200.30–3(a)(12).

Congress or as soon thereafter as practicable.

July 30, 2010 (Transmittal No. 10–053)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Sections 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of Connectors and Cable Assemblies in Mexico for end-use by the United States Military.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 30, 2010 (Transmittal No. 10–064)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement to include the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Kuwait to support the delivery, operation and maintenance of three Sikorsky S–92A Search and Rescue helicopters.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 30, 2010 (Transmittal No. 10–069)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to support the Proton launch of the Nimiq 6 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew Rooney
Principal Deputy Assistant Secretary, Legislative Affairs

July 30, 2010 (Transmittal No. 10–072)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement to include the export of defense articles, to include technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture in Canada, France, and the United Kingdom of F/A–18A–F and Derivative Aircraft Landing Gear Assemblies, Sub-Assemblies, Parts and Components.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 30, 2010 (Transmittal No. 10–073)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are controlled under Category I of the United States Munitions List sold commercially under contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the permanent export of defense articles, including technical data, and defense services related to 11,250 M&P40 Pistols for end-use by the Victoria, Australia Police.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 30, 2010 (Transmittal No. 10–075)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles, including technical data, or defense services abroad in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Mexico for the manufacture of military jet engine blades and vanes for various platforms to be used by the governments of Canada, France, Germany, Italy, Poland, Republic of Korea, Sweden, and the United States.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 30, 2010 (Transmittal No. 10–082)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Singapore for the organizational and intermediate level support and depot level maintenance and overhaul of the F110–GE–129 family of military aircraft engines to be used by the government of Singapore.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 30, 2010 (Transmittal No. 10–086)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles, including technical data, or defense services abroad in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Republic of Korea for the manufacture, assembly, inspection, and test of F404–GE–102 aircraft engines for incorporation into T–50 aircraft owned by the Republic of Korea.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

Dated: August 4, 2010.

Robert S. Kovac,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2010–20317 Filed 8–16–10; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 7120]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 16 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Kovac, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2861.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

June 10, 2010 (Transmittal No. 09–069)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the delivery, integration, and maintenance of the RF 5800V–HH VHF Handheld, RF–5800V–MP VHF Manpack, RF–5800H–MP HF Manpack and the RF–7800S Secure Personnel Radio for end use by the Sudan People's Liberation Army Special Operations Command.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 7, 2010 (Transmittal No. 09–117)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad and the export of firearms in the amount of $1,000,000 or more.

The transaction described in the attached certification involves the transfer of defense articles, to include technical data, and defense services to King Abdullah II Design and Development Bureau (KADDB) in Jordan for the assembly and distribution of JAWS (Jordan Arms and Weapons Systems) Viper multi-caliber semi-automatic handguns to various countries.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 10, 2010 (Transmittal No. 09–135)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a Technical Assistance Agreement to include the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the upgrade of the Iraqi Ministry of Defense communication systems for end-use by the Iraqi Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 26, 2010 (Transmittal No. 10–008)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a technical assistance agreement for the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, to include technical data, and defense services to the United Arab Emirates to support the sale of F–16 Block 60 Fighter Aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 25, 2010 (Transmittal No. 10–037)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker:

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a technical assistance agreement for the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, to include technical data, and defense services for the upgrade of Swedish Low Coverage Radars. The Swedish Air Force is the end user.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 2, 2010 (Transmittal No. 10–038)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, to include technical data, and defense services to support the LITENING Advanced Targeting Pod program for The Netherlands.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 2, 2010 (Transmittal No. 10–044)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles, to include technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to Turkey to support the manufacture and assembly of Day Night Thermal Sensors, Infrared Laser Detecting-Ranging Tracking Sets (AN/AAS–44T) and associated components common to both systems.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 25, 2010 (Transmittal No. 10–049)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacture license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of the DF–301E Direction Finding Equipment in France.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 25, 2010 (Transmittal No. 10–055)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement to include the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Turkey and Poland for the manufacture of machined parts, subassemblies and components for all models of the H–60/S–70, H–53, and H–92 families of helicopters for end use by Turkey, Poland and the United States. No significant military equipment (SME) is authorized for export or for manufacturing under this authorization.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 25, 2010 (Transmittal No. 10–059)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacture licensing agreement for the manufacture of significant military equipment abroad and the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to Japan and Israel to support the manufacture and assembly of Helmet Mounted Displays for the Fighter Aircraft of the Armed Forces of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 25, 2010 (Transmittal No. 10–061)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of defense articles, to include technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to support the C3 Commercial Communication Satellite Programs of Brazil.

The United States Government is prepared to license the export of these items having

taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 25, 2010 (Transmittal No. 10–062)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data and defense services to support the 737 Airborne Early Warning and Control (AEW&C) Wedgetail System previously delivered to the Commonwealth of Australia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 25, 2010 (Transmittal No. 10–065)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement to include the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Bermuda, Hong Kong, Cayman Islands, Malaysia and the Philippines for the sale and support of the Asia Broadcast Satellite 2 (ABS 2) Commercial Communications Satellite Program. No significant military equipment (SME) is authorized for export or for manufacturing under this authorization.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

June 22, 2010 (Transmittal No. 10–066)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement to include the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Sweden and Norway for the manufacture of F414–GE–400 engine components in support of U.S. Navy commercial and FMS contracts. No significant military equipment (SME) is authorized for export or for manufacturing under this authorization.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 12, 2010 (Transmittal No. 10–070)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of major defense equipment abroad and the export of defense articles, including technical data, and defense services in the amount of $25,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the United Kingdom in support of the sale of Hellfire II missiles.

The United States government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Richard R. Verma
Assistant Secretary, Legislative Affairs

July 1, 2010 (Transmittal No. 10–071)

Hon. Nancy Pelosi, Speaker of the House of Representatives

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, to include technical data, and defense services to support the Proton launch of the Intelsat 22 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew Rooney
Principal Deputy Assistant Secretary, Legislative Affairs

Dated: July 29, 2010.

Robert S. Kovac,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2010–20313 Filed 8–16–10; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Delegation of Authority No. 331]

Delegation by the Deputy Secretary of State Regarding Department Representation on the Committee on Foreign Investment in the U.S. (CFIUS)

By virtue of the authority vested in the Secretary by the laws of the United States, including the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and delegated to me pursuant to Delegation of Authority 245–1, I hereby delegate to the Under Secretary for Economic, Energy and Agricultural Affairs and Assistant Secretary for Economic, Energy and Business Affairs, to the extent authorized by law, the authority to represent the Department on the Committee on Foreign Investment in the U.S. (CFIUS), consistent with Section 721 of the Defense Production Act, as amended (50 U.S.C. App. § 2170). The Under Secretary or Assistant Secretary shall consult with the Under Secretary for Arms Control and International

Security and the Assistant Secretary for Political-Military Affairs to obtain a defense trade control and compliance assessment of any CFIUS transactions.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

Notwithstanding this delegation of authority, the Secretary, the Deputy Secretary, or the Deputy Secretary for Management and Resources may at any time exercise any authority or function delegated by this delegation of authority.

This delegation of authority shall be published in the **Federal Register**

December 16, 2009.

James Steinberg,

Deputy Secretary of State.

Editorial Note: This document was received in the Office of the Federal Register on August 12, 2010.

[FR Doc. 2010–20301 Filed 8–16–10; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Fiscal Year 2011 Tariff-Rate Quota Allocations for Raw Cane Sugar, Refined and Specialty Sugar, and Sugar-Containing Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of country-by-country allocations of the Fiscal Year (FY) 2011 in-quota quantity of the tariff-rate quotas for imported raw cane sugar, refined and specialty sugar, and sugar-containing products.

DATES: *Effective Date:* October 1, 2010.

ADDRESSES: Inquiries may be mailed or delivered to Leslie O'Connor, Director of Agricultural Affairs, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Leslie O'Connor, Office of Agricultural Affairs, *telephone:* 202–395–6127 or *facsimile:* 202–395–4579.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains tariff-rate quotas (TRQs) for imports of raw cane sugar and refined sugar. Pursuant to Additional U.S. Note 8 to Chapter 17 of the HTS, the United States maintains a TRQ for imports of sugar-containing products.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a TRQ for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under Presidential Proclamation 6763 (60 FR 1007).

On July 30, 2010, the Secretary of Agriculture (Secretary) announced the sugar program provisions for fiscal year (FY) 2011 (Oct. 1, 2010, through Sept. 30, 2011). The Secretary announced an in-quota quantity of the TRQ for raw cane sugar for FY 2011 of 1,117,195 metric tons * raw value (MTRV), which is the minimum amount to which the United States is committed under the World Trade Organization (WTO) Uruguay Round Agreements. USTR is allocating this quantity (1,117,195 MTRV) to the following countries in the amounts specified below:

Country	FY 2011 Raw cane sugar allocations (MTRV)
Argentina	45,281
Australia	87,402
Barbados	7,371
Belize	11,583
Bolivia	8,424
Brazil	152,691
Colombia	25,273
Congo	7,258
Costa Rica	15,796
Cote d'Ivoire	7,258
Dominican Republic	185,335
Ecuador	11,583
El Salvador	27,379
Fiji	9,477
Gabon	7,258
Guatemala	50,546
Guyana	12,636
Haiti	7,258
Honduras	10,530
India	8,424
Jamaica	11,583
Madagascar	7,258
Malawi	10,530
Mauritius	12,636
Mexico	7,258
Mozambique	13,690
Nicaragua	22,114
Panama	30,538
Papua New Guinea	7,258
Paraguay	7,258
Peru	43,175
Philippines	142,160
South Africa	24,220
St. Kitts & Nevis	7,258
Swaziland	16,849
Taiwan	12,636
Thailand	14,743
Trinidad & Tobago	7,371
Uruguay	7,258
Zimbabwe	12,636

These allocations are based on the countries' historical shipments to the United States. The allocations of the in-quota quantities of the raw cane sugar TRQ to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin, and certificates for quota eligibility must accompany imports from any country for which an allocation has been provided.

On July 30, 2010, the Secretary announced the establishment of the in-quota quantity of the FY 2011 refined sugar TRQ at 99,111 MTRV for which the sucrose content, by weight in the dry state, must have a polarimeter reading of 99.5 degrees or more. This amount includes the minimum level to which the United States is committed under the WTO Uruguay Round Agreements (22,000 MTRV of which 1,656 MTRV is reserved for specialty sugar) and an additional 77,111 MTRV for specialty sugars. USTR is allocating a total of 10,300 MTRV of refined sugar to Canada, 2,954 MTRV of refined sugar to Mexico, and 7,090 MTRV of refined sugar to be administered on a first-come, first-served basis.

Imports of all specialty sugar will be administered on a first-come, first-served basis in five tranches. The Secretary has announced that the total in-quota quantity of specialty sugar will be the 1,656 MTRV included in the WTO minimum plus an additional 77,111 MTRV. The first tranche of 1,656 MTRV will open October 20, 2010. All types of specialty sugars are eligible for entry under this tranche. The second tranche of 27,500 MTRV will open on November 10, 2010. The third, fourth, and fifth tranches of 16,537 MTRV each will open on January 12, 2011, May 18, 2011 and August 24, 2011, respectively. The second, third, fourth and fifth tranches will be reserved for organic sugar and other specialty sugars not currently produced commercially in the United States or reasonably available from domestic sources.

With respect to the in-quota quantity of 64,709 metric tons (MT) of the TRQ for imports of certain sugar-containing products maintained under Additional U.S. Note 8 to Chapter 17 of the HTS, USTR is allocating 59,250 MT to Canada. The remainder, 5,459 MT, of the in-quota quantity is available for other countries on a first-come, first-served basis.

Raw cane sugar, refined and specialty sugar and sugar-containing products volumes for FY 2011 TRQs may enter the United States as of October 1, 2010.

* *Conversion factor:* 1 metric ton = 1.10231125 short tons.

Ronald Kirk,

United States Trade Representative.

[FR Doc. 2010–20234 Filed 8–16–10; 8:45 am]

BILLING CODE 3190–W0–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 27590 (Sub-No. 3)]

TTX Company—Application for Approval of Pooling of Car Service With Respect to Flatcars

AGENCY: Surface Transportation Board.

ACTION: Notice of final decision.

SUMMARY: In 2004, the Surface Transportation Board (Board) granted TTX Company (TTX) a 10-year extension of its authority to pool certain rail cars, subject to monitoring by the Board during the term of TTX's extension. Pursuant to this monitoring commitment, the Board, in September 2009, invited comments from interested parties on whether any of TTX's activities require oversight action by the Board. After reviewing the comments, the Board is issuing a final decision concluding that no modification to its approval of the activities of TTX pursuant to TTX's pooling agreement is required.

DATES: *Effective Date:* The decision will be effective on August 17, 2010.

FOR FURTHER INFORMATION CONTACT: Larry C. Herzig, (202) 245–0282. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: August 10, 2010.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–20230 Filed 8–16–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0143]

Motor Carrier Safety Advisory Committee Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Motor Carrier Safety Advisory Committee Meeting.

SUMMARY: FMCSA announces that its Motor Carrier Safety Advisory Committee (MCSAC) will hold a three-day committee meeting concerning fatigue management of commercial motor vehicle (CMV) operators, from August 30 through September 1, 2010. This meeting is open to the public.

DATES: *Meeting dates:* The meeting will be held on the following dates: Monday, August 30, from 8:30 a.m. to 4 p.m.; Tuesday, August 31, from 8:30 a.m. to 4 p.m.; and Wednesday, September 1, 2010, from 8:30 a.m. to 2 p.m. Eastern Daylight Time.

Location: Hilton Alexandria Old Town, Washington and Jefferson Rooms, 2nd Floor, 1767 King Street, Alexandria, VA 22314 (located across the street from the King Street Metrorail Station).

Subject: FMCSA will request that MCSAC provide information, concepts, and ideas on ways to develop a safe and efficient fatigue management system for commercial motor vehicle operators in the United States. For this meeting, the MCSAC will hear presentations from fatigue management experts and government officials from Australia, Canada, Mexico, and the United States, on efforts to manage how fatigue affects operators of CMVs on their roadways. The MCSAC will draw on the experiences of these other nations and studies performed by the United States and Canada to recommend tenets of fatigue management for the United States. The MCSAC will present a report on its findings and recommendations to Anne Ferro, FMCSA Administrator, at its December 2010 meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Management Analyst, Strategic Planning and Program Evaluation Division, Office of Policy Plans and Regulation, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 385–2395, or e-mail *mcsac@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144, August 10, 2005) required the Secretary of Transportation to establish a Motor Carrier Safety Advisory Committee. The committee provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and regulations and operates in accordance with the Federal Advisory Committee Act (5 U.S.C. App 2).

II. Meeting Participation

For information on services for individuals with disabilities or to request special assistance, please e-mail your request to *mcsac@dot.gov* by Wednesday, August 18, 2010. Comments from the public will be heard orally during the last hour of each day's meeting. To be assured of timely consideration, interested parties may submit written comments on the subject topic by Wednesday, August 18, 2010, to the Federal Docket Management System (FDMS) in Docket Number FMCSA–2010–0143 using either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.

Issued on: August 11, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–20222 Filed 8–16–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2010–0162]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt twenty individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective August 17, 2010. The exemptions expire on August 17, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Background

On June 28, 2010, FMCSA published a Notice of receipt of Federal diabetes exemption applications from twenty individuals and requested comments from the public (75 FR 36775). The public comment period closed on July 28, 2010 and one comment was received.

FMCSA has evaluated the eligibility of the twenty applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441) **Federal Register** Notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** Notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These twenty applicants have had ITDM over a range of 1 to 23 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the June 28, 2010, **Federal Register** Notice and they will not be repeated in this Notice.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

The Pennsylvania Department of Transportation stated that it had reviewed the driving records for Pradip B. Desai, Chad C. Gittings, and Gerald J. Scheeler and was in favor of granting a Federal diabetes exemption to these individuals.

Conclusion

Based upon its evaluation of the twenty exemption applications, FMCSA exempts, Gary L. Alexander, Michael J. Baron, Daniel E. Bergstresser, Neil H. Buchner, Charles L. Cheeseboro, Sr., Stephen F. Clendenin, Donald P. Dean, Pradip B. Desai, Howard M. Galton, Chad C. Gittings, Steve Gumienny, Richard L. Harding, Mark D. Huffine, Brian M. Katayama, Rajendra Narine, James M. Parr, Hubert S. Paxton, Gerald J. Scheeler, Daniel L. Smith and Steven C. Vanscoyoc from the ITDM standard

in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: August 9, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–20216 Filed 8–16–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2002–12294; FMCSA–2005–22194; FMCSA–2006–24015; FMCA–2008–0106; FMCSA–2008–0174]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 18 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 9, 2010. Comments must be received on or before September 16, 2010.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2002–12294; FMCSA–2005–22194; FMCSA–2006–24015; FMCA–2008–0106; FMCSA–2008–0174, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This Notice addresses 18 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 18 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Juan D. Adame
Frank R. Berritto
Daniel K. Davis, III
Timothy J. Droeger
Robert E. Engel
James H. Facemyre
James M. Fairman
Gregory L. Farrar
Jeffrey M. Hall
Victor B. Hawks
Oskia D. Johnson
Richard W. O'Neill
Larry A. Priewe
Robert J. Szeman
Patrick D. Talley
Loren R. Walker
Kris Wells
Timothy J. Wilson

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while

driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 18 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 40404; 64 FR 55962; 67 FR 17102; 69 FR 51346; 71 FR 50970; 73 FR 61927; 64 FR 54948; 65 FR 159; 67 FR 10475; 69 FR 8260; 71 FR 19604; 73 FR 48275; 64 FR 68195; 65 FR 20251; 67 FR 38311; 67 FR 10471; 67 FR 19798; 67 FR 46016; 67 FR 57267; 70 FR 57353; 70 FR 72689; 71 FR 14566; 71 FR 30227; 73 FR 43818; 73 FR 35194; 73 FR 48273; 73 FR 38497; 73 FR 48271) Each of these 18 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by September 16, 2010.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published Notices of final disposition announcing its decision to exempt these 18 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its Notices of applications. The Notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: August 9, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–20226 Filed 8–16–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an information collection titled, "Securities Offering Disclosure Rules."

DATES: Comments must be submitted on or before October 18, 2010.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, *Attention:* 1557–0120, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, please send a copy of your comments to OCC Desk Officer, 1557–0120, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary H. Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Securities Offering Disclosure Rules.

OMB Control No.: 1557–0120.

Type of Review: Regular review.

Description: This information collection covers an existing regulation and involves no change to the regulation or to the information collection. The OCC requests only that OMB extend its approval of the information collection.

The requirements in 12 CFR Part 16 enable the OCC to perform its responsibilities relating to offerings of securities by national banks by providing the investing public with facts about the condition of the bank, the reasons for raising new capital, and the terms of the offering. Part 16 generally requires national banks to conform to Securities and Exchange Commission rules.

The collections of information in part 16 are as follows:

Form for Registration. A national bank offering or selling its own securities to the public is required to make such offer or sale through the use of a prospectus that has been filed with the OCC as part of a registration statement.

Abbreviated Form for Registration. A national bank that is a subsidiary of a company that has securities registered under the Securities Exchange Act of 1934 (Exchange Act) may offer and sell securities (nonconvertible debt) only to accredited investors upon meeting conditions in 12 CFR 16.6 and by providing an abbreviated information statement in a form for registration.

Small Issues. A national bank may offer and sell securities publicly in a limited dollar amount by using an Offering Statement meeting the requirements of SEC's Regulation A (17 CFR 230.251 *et seq.*).

Regulation D. A national bank may offer or sell its own securities in a private placement to accredited or sophisticated investors in compliance with 12 CFR 16.7.

Form 144. A national bank must file Form 144, which contains information on resales of securities originally sold through the private placement exemption, only in certain circumstances.

These information collection requirements ensure bank compliance with applicable Federal law, promote bank safety and soundness, provide protections for banks, and further public policy interests.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 48.

Estimated Number of Responses: 48.

Estimated Annual Burden: 450 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 10, 2010.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. 2010–20236 Filed 8–16–10; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2010–0015]

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID OTS–2010–24]

NATIONAL CREDIT UNION ADMINISTRATION

Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (FRB); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS); and National Credit Union Administration (NCUA).

ACTION: Final Guidance.

SUMMARY: The OCC, FRB, FDIC, OTS, and NCUA (the Agencies) are issuing this final guidance entitled, "Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks" (guidance). The Agencies developed this guidance, in conjunction with the State Liaison Committee of the Federal Financial Institutions Examination Council (FFIEC), to address compliance and reputation risks associated with reverse mortgages, which are complex loan products typically offered to elderly consumers. Institutions are expected to use the guidance in their efforts to ensure that their risk management and consumer protection practices adequately address the compliance and reputation risks raised by reverse mortgage lending.

DATES: This final guidance is effective on October 18, 2010. Comments on the Paperwork Reduction Act burden estimates only may be submitted on or before September 16, 2010.

FOR FURTHER INFORMATION CONTACT:

OCC: Karen Tucker, National Bank Examiner and Senior Compliance Specialist, or Jesse Butler, Bank Examiner and Compliance Specialist, Compliance Policy, (202) 874- 4428; Stephen Van Meter, Assistant Director, or Nancy Worth, Counsel, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

FRB: Kathleen Conley, Senior Supervisory Consumer Financial Services Analyst, (202) 452–2389; Brent Lattin, Senior Attorney, (202) 452–3667, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

FDIC: Michael R. Evans, Fair Lending Specialist, Compliance Policy Section, Division of Supervision and Consumer Protection, (202) 898–6611; or Richard M. Schwartz, Counsel, (202) 898–7424, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DNC 20429.

OTS: David Adkins, Fair Lending Specialist, (202) 906–6716, or Richard Bennett, Senior Compliance Counsel, (202) 906–7409, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

NCUA: Robert C. Leonard, Program Officer, 703–518–6396, Office of Examination & Insurance, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Background Information

Institutions under the Agencies' supervision currently provide two basic types of reverse mortgage products: lenders' own proprietary reverse mortgage products and reverse mortgages offered under the Home Equity Conversion Mortgage (HECM) program.[1] Both HECMs and proprietary products are subject to various laws governing mortgage lending including

[1] A HECM is a reverse mortgage product insured by the Federal Housing Administration (FHA), which is part of the U.S. Department of Housing and Urban Development (HUD), and subject to a range of federal consumer protection and other requirements. *See* 12 U.S.C. 1715z–20; 24 CFR Part 206.

the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA), the Federal Trade Commission Act (FTC Act), and the fair lending laws. HECMs are also subject to an extensive regulatory regime established by HUD, including provisions for FHA insurance of HECM loans that protect both lenders and reverse mortgage borrowers.

Reverse mortgages enable eligible borrowers to remain in their homes while accessing their home equity in order to meet emergency needs, supplement their incomes, or, in some cases, purchase a new home—without subjecting borrowers to ongoing repayment obligations during the life of the loan. The use of reverse mortgages could expand significantly in coming years as the U.S. population ages and more homeowners become eligible for reverse mortgage products. If prudently underwritten and used appropriately, these products have the potential to become an increasingly important credit product for addressing certain credit needs of an aging population.

However, reverse mortgages can be highly complex loan products, and it is particularly important to provide adequate information and other consumer protections. Typically, elderly borrowers are securing a reverse mortgage with their primary asset—their home. Thus, borrowers may depend on the reverse mortgage proceeds for the cash flow needed to pay for health care and other living expenses.

For these reasons, it is critical that institutions and other entities subject to the Agencies' supervision (hereafter "institutions") manage the compliance and reputation risks associated with reverse mortgages. To assist institutions in their efforts to manage these risks, the Agencies published for comment Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks (proposed guidance), 74 FR 66652 (December 16, 2009). The proposed guidance discussed the general features of, certain legal provisions applicable to, and consumer protection concerns raised by reverse mortgage products. In addition, it focused on the need to provide adequate information to consumers about reverse mortgage products; to provide qualified independent counseling to consumers considering these products; and to avoid potential conflicts of interest. The proposed guidance also addressed related policies, procedures, and internal controls and third party risk management.

The Agencies received 18 comments on the proposed guidance. Comments were received from financial institutions (institutions); industry-related trade associations (industry groups); counselors, consumer and community organizations (consumer organizations); government officials; and members of the public.

II. Overview of Public Comments

The commenters were generally supportive of the proposed guidance. In general, institutions and industry groups sought additional clarity and flexibility in implementing the guidance, while consumer organizations and government commenters sought to adopt stronger standards, particularly with respect to policies designed to avoid conflicts of interest.

A majority of institutions and industry groups sought more clarity on the extent to which HUD rules (such as those relating to fees) should be applied to proprietary reverse mortgages. They also sought additional clarity or flexibility regarding particular recommendations in the proposed guidance, including with respect to the information that should be provided to reverse mortgage borrowers in promotional materials, the conduct of counseling by telephone, and the restrictions on cross-selling. Institution and industry group commenters generally sought clarification that implementation of the guidance would be consistent with forthcoming changes to the HECM counseling protocols and the FRB's Regulation Z, the regulation that implements TILA.

Consumer organizations and a government commenter generally supported the provision of balanced information about reverse mortgage alternatives, and avoidance of deceptive marketing by loan originators or brokers. Among the recommendations made by these commenters were to establish a suitability standard, engage in consumer testing of any new disclosures, strengthen the requirement for in-person counseling, and adopt stronger policies to avoid conflicts of interests. Several commenters made suggestions for additional topics that were not included in the proposed guidance; these related to data collection on the volume of reverse mortgages, anti-fraud provisions, test design for the HECM counseling roster, and other HECM program rules.

III. Revisions To Address Public Comments on the Guidance

The Agencies made a number of changes to the proposal to respond to commenters' concerns and to provide additional clarity. Significant comments on the specific provisions of the proposed guidance, the Agencies' responses, and changes to the guidance are discussed below.

Communications With Consumers

Commenters generally asked for a number of clarifications with respect to the proposed guidance on communications between institutions and potential reverse mortgage borrowers. Consumer organizations and a government commenter generally supported the provision of balanced information about reverse mortgages and alternatives, and avoidance of deceptive marketing by loan originators and brokers. One government commenter suggested consumer testing of new disclosures, if any, to improve communications.

Some consumer organization and government commenters urged a strong role for lenders in determining the suitability of the loan for the borrower. In particular, these commenters suggested that it should be the duty of any lender or broker to articulate and match the consumer's needs, objectives, and circumstances to the terms of the loan and to reveal any interest that the lender or broker has in arranging the loan.

This reverse mortgage guidance does not, and is not intended to, impose suitability obligations on lenders. The Agencies believe, however, that the provision of clear and balanced information and qualified independent counseling in accordance with the guidance will help to ensure that reverse mortgage borrowers do not enter into transactions that are not appropriate for their financial circumstances and needs.

With regard to the commenter's recommendations for consumer testing, as noted in the preamble to the proposed guidance, the Agencies are considering whether to issue illustrations of consumer information for reverse mortgages. The Agencies will consider the commenter's consumer testing recommendations in connection with these illustrations. Before adopting any illustrations, the Agencies will issue them for notice and comment.

Institution and industry group commenters generally sought clarification that implementation of the guidance would be consistent with changes to the HECM counseling protocols and the FRB's Regulation Z. One industry commenter asked that the Agencies clarify whether Regulation Z or FTC Act standards for proper disclosures would be applied to advertisements and promotional materials for reverse mortgages. These commenters also sought clarification of specific points regarding the list of the information items that should be

provided to reverse mortgage borrowers in promotional materials.

As a general matter, the Agencies believe that the guidance is consistent with the HECM protocols and Regulation Z, as now in effect. The current HECM counseling protocols require that counselors provide to borrowers the same information that is listed in the proposed guidance. The Agencies are not aware of any proposed changes to the HECM requirement that counselors provide this information.

While the FRB is reviewing Regulation Z disclosures for reverse mortgages, this project is not final. In light of this review, the Agencies are not addressing technical requirements that may be addressed in Regulation Z, and do not anticipate that the general recommendations in the guidance will conflict with any specific disclosure requirements for reverse mortgages adopted by the FRB.

In response to a commenter's inquiry concerning whether Regulation Z standards would be applied to all marketing materials, the Agencies did not intend to incorporate—in stating that information should be provided clearly and conspicuously—Regulation Z's standard for "clear and conspicuous" disclosures. Rather, the Agencies sought to convey simply that important information should be presented in a clear and prominent manner. The final guidance has been clarified accordingly. Advertisements and other marketing materials, of course, will continue to be subject to any relevant requirements under Regulation Z, the FTC Act, and other applicable laws and regulations.

In regard to the more specific issues raised by commenters, the Agencies have clarified the guidance by acknowledging that institutions may not be able to provide all of the information recommended in this guidance when advertising reverse mortgages through certain forms of media, such as radio, television, or billboards. In these circumstances, however, institutions should provide clear and balanced information about the risks of these products.[2] The Agencies also clarified the meaning of "clear and balanced information" in the final guidance; in particular, information is balanced when it fairly presents risks and costs as well as potential benefits. The Agencies clarified in the final guidance when more comprehensive information should be provided, and that promotional materials should address how disbursements from the reverse mortgage may affect the borrower's ability to obtain public benefits. Information provided in promotional materials may cross-reference other materials, and may refer borrowers to tax or financial advisors.

Qualified Independent Counseling

Commenters supported the recommendation in the guidance that consumers seeking any reverse mortgage should consult a qualified independent counselor. Commenters disagreed on the extent to which the guidance should encourage in-person counseling (as opposed to telephonic counseling). They also disagreed on certain procedures related to counseling—for example, how to inform borrowers about counselors and whether lenders should contact counselors directly.

A majority of institutions and industry groups noted the disadvantages of requiring in-person counseling, including the shortage of qualified counselors and the logistical and other challenges that may make it difficult to bring the borrower(s) and their advisors to an in-person counseling session. One counseling agency also supported telephonic counseling, and noted that telephonic counseling may be more feasible, in particular, when a multilingual counselor is needed to provide counseling in the borrower's own language. Consumer group and government commenters, however, strongly supported in-person counseling, and advocated that it be used in all but rare cases. These commenters stated that in-person counseling sessions are longer, foster greater understanding, and give counselors a better opportunity to assess the borrower's needs and understanding of the transaction.

In order for institutions to best promote consumer comprehension and manage compliance risks, the Agencies intend that the guidance reflect and be consistent with HUD's stated preference for in-person counseling whenever possible, and have modified the guidance to clarify that intention.

Industry groups and financial institutions also requested greater clarification with respect to how institutions should refer borrowers to counselors and ensure that counselors have appropriate knowledge of proprietary products. Commenters also asked whether the Agencies expected institutions to ensure that counseling covered all of the topics noted in the guidance. Several commenters also referred to the fact that HUD is expected to release new protocols for HECM counseling and that these protocols would likely cover many of the topics discussed in the guidance.

The Agencies have modified the guidance to address some of these specific concerns. In particular the guidance now indicates that lenders may provide borrowers with a list of reverse mortgage counselors, consistent with HUD guidelines for HECM counseling, and may provide borrowers with a substantial array of materials—including information about proprietary products—before the borrower meets with a reverse mortgage counselor. The guidance also has been modified to clarify that institutions are not expected to supervise or monitor the activities of qualified independent counselors. The Agencies expect that counselors' activities would conform to new HUD protocols when they are released.

Avoidance of Potential Conflicts

Generally, consumer organizations and one regulatory agency supported the guidance's view that institutions should take all reasonably necessary steps to avoid any appearance of a conflict of interest, though some consumer organizations urged the adoption of stricter standards than proposed. Institution and industry groups sought additional clarifications to this portion of the proposed guidance.

The proposed guidance recommended that policies prohibit the reverse mortgage from being conditioned on the purchase of "any other financial or other product" from the lender ("anti-tying provision"). Consumer organizations urged stricter standards, including the adoption of further restrictions prohibiting yield spread premiums (YSPs) and limiting sales of other products by lenders or their affiliates. Industry commenters noted that this provision, as stated, was broader than applicable federal anti-tying rules, and would prohibit, for example, restricting the availability of reverse mortgages to consumers having a deposit relationship with the institution.

In response to these comments, the Agencies are clarifying the anti-tying and conflict avoidance provisions so that they more clearly address applicable federal rules, including the anti-tying rules contained in the Bank Holding Company Act Amendments of 1970 and the Home Owners' Loan Act; the rules relating to insurance sales adopted by the OCC, FRB, FDIC, and OTS; and the provisions applicable to HECMs. The Agencies provide, as an example, that an institution may risk violations, depending on the specific law that applies, if it requires consumers to obtain annuity products—

[2] These clarifications are consistent with other interagency guidance relating to nontraditional mortgages. Interagency Guidance on Nontraditional Mortgage Product Risks, 71 FR 58609, 58617 n.19 (Oct. 4, 2006).

or any other product that is not a traditional banking product—in order to obtain a reverse mortgage or varies the price of the reverse mortgage based on a condition that the borrower purchase such other product from the institution or affiliate. The Agencies believe that this example will help prevent violations of rules, as applicable.

The guidance also clarifies the Agencies' expectation that institutions' policies and procedures will be designed to ensure that brokers with whom they do business as agents also will not condition or vary the price of the loan on the consumer's obtaining some additional product or service (other than a traditional banking product). The Agencies also have added a related recommendation that institutions' policies and procedures will be designed to ensure that neither lenders nor brokers require the borrower to obtain any insurance, annuity, or similar product (other than appropriate title, flood, or hazard insurance as permitted or required by applicable law). This recommendation reflects insurance sales restrictions currently applicable to HECMs.

The proposed guidance also contained recommendations to guard against inappropriate incentives for the origination of reverse mortgages or the sale of other products. Several commenters sought clarification on the extent to which they could offer or refer consumers to other products, particularly where those products are provided by third parties or are typically required in connection with mortgage settlements.

The Agencies believe that the clarifications described above help to address these commenters' concerns. The final guidance stresses that institutions must comply with relevant anti-tying rules, and, further, should consider other appropriate measures necessary to guard against improper incentives or potential conflicts of interest. The Agencies also removed an example included in the proposed guidance to address commenters' concerns that it exceeded the scope of the anti-tying rules by implying that the Agencies wished to ban the offering of any other products or any referral to providers of other products in connection with a reverse mortgage. In addition, the Agencies emphasized in the final guidance that policies relating to cross-selling—offering or referring consumers to other products—should be designed to ensure that the activities are clearly consistent with FTC Act standards.

Other Issues

Fees. An industry commenter requested clarification on what limitations the Agencies intended by recommending in the proposed guidance that institutions adopt relevant HECM requirements for proprietary mortgages, including requirements with respect to "affordable origination fees." The Agencies note that HECM origination fees are expressly limited by statute. In response to this comment, the Agencies have deleted the specific reference to affordable origination fees. The Agencies do not intend to set fee limits in this guidance. However, the Agencies expect institutions offering proprietary reverse mortgages to reasonably price such products, including with respect to origination fees, consistent with safe and sound banking practices, and with appropriate consideration of costs, risks, and returns. Consistent with safe and sound banking practices in setting interest rates, fees, and other charges, an institution should consider, among other factors, the costs incurred in originating the loan and the risks associated with the loan. While HECM origination fees are expressly limited by statute, the costs and risks of proprietary loans may be different from those of HECMs. For example, the lack of FHA insurance on proprietary loans will mean that the institution (and not HUD) bears the risk that the borrower lives longer than expected, that the interest rates are higher than expected, or that the collateral value does not increase as rapidly as projected. The Agencies also note that HECMs may carry substantial other costs—principally insurance premiums—that proprietary reverse mortgages may lack. In addition to considering safe and sound banking practices in setting fees, institutions should comply with any applicable law or regulation, and follow guidance governing fees.

Taxes and Insurance. Financial institutions and industry group commenters requested clarification regarding the Agencies' expressed concern about ensuring borrowers' ability to pay taxes and insurance. These commenters were concerned that this requirement would require them to set traditional credit underwriting standards for reverse mortgages and deny loans to consumers if these standards were not met. The Agencies are not imposing a credit underwriting standard in this guidance. There are a number of other ways that institutions can take appropriate steps to determine or ensure that a consumer has the ability to pay taxes and insurance. These include escrows, in compliance with applicable laws,[3] and set-aside arrangements.

Third Party Risk Management. One consumer organization commenter urged that loan originators should ensure that brokers do not advertise reverse mortgages as "government benefits." In this regard, the Agencies note that lender due diligence and monitoring activities should include a review of promotional materials used by third parties to ensure compliance with TILA, the FTC Act, and other laws, as applicable. The guidance has been modified to clarify this position.

Other. One consumer organization recommended that the Agencies collect data on reverse mortgages. Later in 2010, the Agencies will begin collecting data on reverse mortgages on the Call Report and Thrift Financial Report.[4] Several commenters requested that HUD change certain requirements relating to the HECM counseling roster or the origination or termination of HECMs. These matters relate to HUD's operation of the HECM program and it would not be appropriate for the Agencies to address these issues in the guidance.

IV. Paperwork Reduction Act

In accordance with section 3512 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521 (PRA), the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. To implement this information collection contained in this guidance, the OCC, FDIC, OTS, and NCUA will seek OMB approval. The FRB has approved this information collection under its delegated authority from OMB.

On December 16, 2009,[5] the agencies sought comment on the burden estimates for this information collection. No comments were received regarding the burden estimates.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the Federal banking agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

[3] *See* 24 CFR 206.205(e)(1) and 24 CFR 3500.17.

[4] *See* 74 FR 68314 (Dec. 23, 2009) and 74 FR 68326 (Dec. 23, 2009).

[5] 74 FR 66652.

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments on these questions should be directed to:

OCC: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention 1557–NEW, 250 E Street, SW., Washington, DC 20219. In addition comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

FRB: You may submit comments, identified by Docket No. OP–1362, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the FRB's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed in electronic or paper form in Room MP–500 of the FRB's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: Interested parties are invited to submit written comments. All comments should refer to the name of the collection, "Reverse Mortgage Products Guidance." Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *E-mail: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202) 898.3719, Counsel, Federal Deposit Insurance Corporation, PA1730–3000, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

OTS: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725—17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

NCUA: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/Resources/RegulationsOpinionsLaws/ProposedRegulations.aspx.* Follow the instructions for submitting comments.
- *E-mail:* Address to *regcomments@ncua.gov.* Include "[Your name] Comments on Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks," in the e-mail subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for e-mail.
- *Mail:* Address to Mary F. Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public inspection: All public comments are available on the agency's Web site at *http://www.ncua.gov/Resources/RegulationsOpinionsLaws/ProposedRegulations.aspx* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library, at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an e-mail to *OGC Mail @ncua.gov.*

You should send a copy of your comments to the OMB Desk Officer for the agencies, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

Title of Information Collection: Reverse Mortgage Products.

OMB Control Numbers: New collection; to be assigned by OMB.

Abstract: The Agencies previously determined that certain provisions of the guidance contain information collections. However, a number of the guidance provisions are currently standard business practice for proprietary and HECM reverse mortgages and, therefore, under the "usual and customary" standard, PRA clearance is not warranted. There are also requirements currently covered under approved TILA-related information collections for proprietary and HECM reverse mortgages, and an approved HUD information collection for HECM reverse mortgages.

Proprietary reverse mortgage products, however, are not subject to the consumer protection provisions of the HECM program, so these guidance provisions would normally be submitted for approval under PRA. However, recent research has shown that, despite the significant growth in reverse mortgages since inception of the HECM program in 1989, currently the market for proprietary reverse mortgages has dissipated to the point that, industry-wide, there are fewer than 10 lenders offering such products.[6] This is likely due to the recent decline in

[6] *See* the FRB's Divisions of Research & Statistics and Monetary Affairs Finance and Economics Discussion Series paper "Reversing the Trend: The Recent Expansion of the Reverse Mortgage Market," *http://www.federalreserve.gov/pubs/feds/2009/200942/200942pap.pdf.*

housing values, resulting in decreased equity in homes.

Given the minimal number of lenders currently offering proprietary reverse mortgages, the agencies are not now seeking OMB approval for the consumer protection provisions in the guidance applicable to proprietary reverse mortgages. The agencies will, however, seek PRA approval once this sector of the market recovers.

Lastly, there are provisions in the guidance that apply to both proprietary and HECM reverse mortgages that do not meet the "usual and customary" standard, are not covered by already approved information collections and, therefore, require PRA clearance.

Proprietary Reverse Mortgages

Institutions offering proprietary reverse mortgages are encouraged under the guidance to follow or adopt relevant HECM requirements for mandatory counseling, disclosures, restrictions on cross-selling of ancillary products, and reliable appraisals.

Proprietary and HECM Reverse Mortgages

Institutions offering either HECMs or proprietary reverse mortgages are encouraged to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage. They should set forth a description of how disbursements can be received and include timely information to supplement the TILA and other disclosures. Promotional materials and product descriptions should include information about the costs, terms, features, and risks of reverse mortgage products.

Institutions should adopt policies and procedures that prohibit directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf. They should adopt clear written policies and establish internal controls specifying that neither the lender nor any broker will require the borrower to purchase any other product from the lender in order to obtain the mortgage. Policies should be clear so that originators do not have an inappropriate incentive to sell other products that appear linked to the granting of a mortgage. Legal and compliance reviews should include oversight of compensation programs so that lending personnel are not improperly encouraged to direct consumers to particular products.

Institutions making, purchasing, or servicing reverse mortgages through a third party should conduct due diligence and establish criteria for third party relationships and compensation. They should set requirements for agreements and establish systems to monitor compliance with the agreement and applicable laws and regulations. They should also take corrective action if a third party fails to comply. Third party relationships should be structured in a way that does not conflict with RESPA.

Affected Public:

OCC: National banks, their subsidiaries, and federal branches or agencies of foreign banks.

FRB: Bank holding companies, state member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.

FDIC: Insured state nonmember banks.

OTS: Savings associations and savings and loan holding companies.

NCUA: Federally-insured credit unions.

Type of Review: Regular.

Estimated Burden:

OCC:

Number of respondents: 77.

Burden per respondent: 40 hours to implement policies and procedures and to provide training; 8 hours annually to maintain program.

Total estimated annual burden: 3,696 hours.

FRB:

Number of respondents: 18.

Burden per respondent: 40 hours to implement policies and procedures and to provide training; 8 hours annually to maintain program.

Total estimated annual burden: 864 hours.

FDIC:

Number of respondents: 48.

Burden per respondent: 40 hours to implement policies and procedures and to provide training; 8 hours annually to maintain program.

Total estimated annual burden: 2,304 hours.

OTS:

Number of respondents: 20.

Burden per respondent: 40 hours to implement policies and procedures and to provide training; 8 hours annually to maintain program.

Total estimated annual burden: 960.

NCUA:

Number of respondents: 85.

Burden per respondent: 40 hours to implement policies and procedures and to provide training; 8 hours annually to maintain program.

Total estimated annual burden: 4,080 hours.

The text of the final guidance follows:

V. Guidance

Reverse Mortgage Products:

Guidance for Managing Compliance and Reputation Risks

Introduction

The Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA) (the Agencies) are issuing this guidance to assist their regulated financial institutions [1] in managing risks presented by reverse mortgage products. Reverse mortgages are home-secured loans, typically offered to elderly consumers, which present consumer protection issues that raise compliance and reputation risks for the institutions offering them.

Expected increases in the elderly population of the United States and other factors suggest that the use of reverse mortgages could expand significantly in coming years as more homeowners become eligible for reverse mortgage products. These loan products enable eligible borrowers to access the equity in their homes in order to meet emergency needs, to supplement their incomes, or to purchase a new home.[2] Reverse mortgages can meet these objectives without subjecting borrowers to ongoing repayment obligations during the life of the loan, while enabling borrowers to remain in their homes. As a result, the Agencies believe that reverse mortgages, offered appropriately, could become an increasingly important mechanism for institutions to address credit needs of an aging population.

Nevertheless, reverse mortgages are complex loan products that present a wide range of complicated options to borrowers. Moreover, the need to provide adequate information about reverse mortgages and to ensure appropriate consumer protections is

[1] This guidance applies to all banks and their subsidiaries, bank holding companies (other than foreign banks) and their nonbank subsidiaries, savings associations and their subsidiaries, savings and loan holding companies and their subsidiaries, credit unions, U.S. branches and agencies of foreign banks engaged in reverse mortgage transactions, and any other entity supervised by those adopting the guidance. The guidance refers to all of those covered as "institutions."

[2] The Federal Housing Administration (FHA) has a program that enables eligible borrowers to use the proceeds of a federally-insured reverse mortgage for the purchase of a new principal residence. *See* U.S. Department of Housing and Urban Development (HUD) Mortgagee Letter 2008–23 (October 20, 2008) and HUD Mortgagee Letter 2009–11 (March 27, 2009).

particularly high. This is because reverse mortgages are typically secured by the borrower's primary asset—his or her home. Consequently, a reverse mortgage may provide the only funds available to a consumer to pay for health care needs and other living expenses.[3]

For these and other reasons, reverse mortgages present substantial risks both to institutions and to consumers, and, as with any type of loan that is secured by a consumer's home, it is crucial that consumers understand the terms of the product and the nature of their obligations. While this guidance addresses consumer protection concerns that raise compliance and reputation risks, the Agencies recognize that reverse mortgage products may present other risks to lenders, too, such as credit, interest rate, and liquidity risks,[4] especially for proprietary reverse mortgage products lacking the insurance offered under the federal Home Equity Conversion Mortgage (HECM) program.[5]

As explained in further detail below, the complex nature of reverse mortgages presents the risk that consumers will not understand the costs, terms, and consequences of the products. Consumers also may be harmed by any conflicts of interest or abusive or fraudulent practices related to the sale of ancillary products or services. In contrast to HECM reverse mortgages, proprietary reverse mortgages also present the risk that lenders will be unable to meet their obligations to make payments due to consumers.[6]

As with other lending products, institutions should manage the compliance and reputation risks associated with reverse mortgages. This guidance is intended to assist institutions in their efforts to manage these risks. This guidance focuses on ways an institution may provide adequate information about reverse mortgage products and qualified independent counseling to consumers and on ways to avoid potential conflicts of interest. The guidance also addresses related policies, procedures, internal controls, and third party risk management for institutions.

This guidance may be particularly useful for institutions that offer proprietary reverse mortgage products that are not subject to the regulatory requirements applicable to reverse mortgages offered under the HECM program. Depending on how they are structured, proprietary reverse mortgage products may contain a higher degree of risk than HECMs. Therefore, to address these risks effectively, proprietary products may warrant careful scrutiny under the principles, considerations, and risks discussed in this guidance.

The Agencies expect institutions to use this guidance to ensure that risk management practices adequately address compliance and reputation risks associated with reverse mortgages. Failure to address the risks discussed in this guidance could significantly affect the overall effectiveness of an institution's compliance and risk management efforts with respect to reverse mortgages. The Agencies will review risk management processes in this area during examinations of regulated institutions and will request remedial actions if institutions do not adequately manage these risks.

Background

The reverse mortgage market currently consists of two basic types of reverse mortgage products: proprietary products offered by an individual institution and FHA-insured reverse mortgages offered under the HECM program. HECM reverse mortgages have accounted for approximately 90% of all reverse mortgages.[7]

Reverse mortgages generally are non-recourse, home-secured loans that provide one or more cash advances to borrowers and require no repayments until a future time. Both HECMs and proprietary reverse mortgages generally must be repaid only when the last surviving borrower dies, all borrowers permanently move to a new principal residence, or the loan is in default. For example, repayment would be required when the borrower sells the home or has not resided in the home for a year. A borrower may be in default on a reverse mortgage when the borrower fails to pay property taxes, fails to maintain hazard insurance, or lets the property fall into unreasonable disrepair. When a reverse mortgage becomes due, the home must be sold or the borrower (or surviving heirs) must repay the full amount of the loan (including accrued interest), even if the balance is greater than the property value. If the home is sold, the borrower or estate generally would not be liable to the lender for any amounts in excess of the value of the home.[8]

To obtain a reverse mortgage, the borrower must occupy the home as a principal residence and generally be at least 62 years of age. Reverse mortgages are typically structured as first lien mortgages, and generally require that any prior mortgage be paid off either before obtaining the reverse mortgage or with the funds from the reverse mortgage.[9]

The funds from a reverse mortgage may be disbursed in several different ways:

- A single lump sum[10] that distributes up to the full amount of the principal limit[11] in one payment;
- A credit line that permits the borrower to decide the timing and amount of the loan advances;
- A monthly cash advance, either for a fixed number of years selected by the borrower or for as long as the borrower lives in the home; or
- Any combination of the above selected by the borrower.

Generally, the size of the loan will be larger when the borrower is older, the home is more valuable, or interest rates are lower. Interest rates on a reverse mortgage may be fixed or variable.

Legal Considerations

Both HECMs and proprietary reverse mortgage products are subject to laws and regulations governing mortgage lending. The following are particularly

[3] In 2007, the typical reverse mortgage borrower was 73 years old, had a home valued at $261,500, and had financial assets of less than $33,000. AARP, *Reverse Mortgage: Niche Product or Mainstream Solution,* Dec. 2007 (available at *http://assets.aarp.org/rgcenter/consume/2007_22_revmortgage.pdf*).

[4] Institutions also should manage these other risks appropriately. In this regard, institutions are advised to conform their reverse mortgage lending activities to any applicable guidance from their respective supervisory agencies, and to consult with those agencies with respect to any such safety and soundness issues.

[5] A HECM is a reverse mortgage product insured by the FHA, part of HUD, and is subject to a range of consumer protection and other requirements. *See* 12 U.S.C. 1715z–20; 24 CFR 206. A lender making a HECM loan may assign it to HUD when the outstanding balance reaches 98% of the maximum claim amount. *See* 24 CFR 206.107(a)(1).

[6] Under the FHA insurance program for HECM loans, HUD will make payments to a consumer if a HECM lender fails to make a payment due to the consumer. *See* 24 CFR 206.117 and 206.121.

[7] AARP, *Reverse Mortgage: Niche Product or Mainstream Solution,* Dec. 2007, at 1 (available at *http://assets.aarp.org/rgcenter/consume/2007_22_revmortgage.pdf*).

[8] For a further explanation of the non-recourse features of a HECM, *see* HUD Mortgagee Letter 2008–38.

[9] HECMs must be first lien mortgages. 12 U.S.C. 1715z–20(b)(3). Only certain subordinate liens are permissible in connection with HECM loans. *See* HUD Mortgagee Letter 2009–49.

[10] While HECM payment plans do not include a separate "lump sum" option, HECMs provide an effective substitute for such an option through a line of credit that can be fully drawn at consummation.

[11] The principal limit is the maximum payment that can be made to the borrower. The principal limit depends on the age of the youngest borrower, the expected interest rate, and the "maximum claim amount." The maximum claim amount is either (1) the lower of the actual value or FHA loan limit (for HECMs) or (2) the loan-to-value ratio established by the lender (for proprietary mortgages). The maximum claim amount includes the principal limit (cash available to the borrower), accrued interest, and any set-asides for repairs or servicing fees required by the loan terms.

relevant to the issues addressed in this guidance:

• *Federal Trade Commission Act (FTC Act).* Section 5 of the FTC Act prohibits unfair or deceptive acts or practices.[12] The OCC, the FRB, the FDIC, and the OTS enforce this provision of the FTC Act and any applicable regulations under authority granted in the FTC Act and section 8 of the Federal Deposit Insurance Act. The NCUA enforces this provision of the FTC Act and any applicable regulations under authority granted in the FTC Act and sections 120 and 206 of the Federal Credit Union Act.[13] Practices may be found to be *deceptive* and thereby unlawful under section 5 of the FTC Act if: (1) There is a representation, omission, act, or practice that is likely to mislead the consumer; (2) the act or practice would be deceptive from the perspective of a reasonable consumer; and (3) the representation, omission, act, or practice is material.[14] A practice may be found to be unfair and thereby unlawful under section 5 of the FTC Act if (1) the practice causes or is likely to cause substantial consumer injury; (2) the injury is not outweighed by benefits to the consumer or to competition; and (3) the injury caused by the practice is one that consumers could not reasonably have avoided.[15]

• *Truth in Lending Act (TILA).* TILA and the FRB's implementing Regulation Z contain rules governing disclosures that institutions must provide for mortgages in advertisements, with an application, before loan consummation, and when interest rates change. Reverse mortgage borrowers must receive all disclosures that are required under TILA,[16] including notice of their right to rescind the loan, where applicable.[17]

Reverse mortgages may be structured as open-end credit or as closed-end credit within the meaning of Regulation Z. Disclosures required by TILA relating to open-end or closed-end mortgages must be provided, as appropriate.[18] For closed-end, variable rate loans, lenders must provide the variable rate program disclosures,[19] as well as required notices of interest rate adjustments.[20]

In addition, TILA requires that a loan cost disclosure form be provided to reverse mortgage borrowers.[21] The total annual loan cost shown on the form includes the upfront costs (*e.g.*, origination fee, third-party closing fee, and any upfront mortgage insurance premium), interest, and ongoing charges (*e.g.*, monthly service fee and any annual mortgage insurance premium).

• *Real Estate Settlement Procedures Act (RESPA).* RESPA and HUD's implementing Regulation X contain rules that, among other things, require disclosure of early estimated and final settlement costs and prohibit referral fees and other charges that are not for services actually performed. As a general matter, an institution may neither pay nor accept any fee or other thing of value in exchange for the referral of business related to a reverse mortgage transaction.

Institutions that offer reverse mortgage products must ensure that they do so in a manner that complies with the foregoing and all other applicable laws and regulations, including the following Federal laws:

- Equal Credit Opportunity Act;
- Fair Housing Act; and
- National Flood Insurance Act.

State laws, including laws regarding unfair or deceptive acts or practices, also may apply to reverse mortgage transactions. Currently, more than twenty states have laws or regulations governing various aspects of reverse mortgages. In addition, all state financial institution regulators have the authority to supervise the mortgage-related activities of entities subject to their respective jurisdictions, including activities related to reverse mortgages.[22]

HECM reverse mortgages also are subject to the consumer protections and other special provisions set forth in HUD regulations.[23] HECM consumer protections include information provided to consumers through qualified independent counselors. Before obtaining a HECM reverse mortgage, the borrower must receive counseling from a HUD-approved housing counseling agency.[24] The counseling agency is required to discuss with the borrower: (1) Alternatives to HECMs, (2) the financial implications of entering into a HECM (including tax consequences), (3) the effect on eligibility for assistance under Federal and State programs, and (4) the impact on the estate and heirs of the homeowner.[25] HUD encourages, but does not require, that HECM counseling be conducted in person.[26] HECMs also carry particular disclosure requirements under HUD rules, including a requirement that the lender provide copies of the mortgage, note, and loan agreement to the borrower at the time that the borrower's application is completed.

Recent statutory changes to the HECM program established additional consumer protections.[27] For example, Congress adopted consumer protections to guard against potential conflicts of interest, including: (1) Special requirements for HECM lenders that are associated with any other "financial or insurance activity," (2) a prohibition on lenders' conditioning the availability of the HECM on the purchase of other financial or insurance products (with limited exceptions), and (3) a requirement that the HECM borrower receive adequate counseling from an independent third party who is not compensated by or associated with a party connected to the transaction.

[12] Supervisory guidance to financial institutions has been issued concerning unfair or deceptive acts or practices. *See* OCC Advisory Letter 2002–3—*Guidance on Unfair or Deceptive Acts or Practices,* March 22, 2002; Joint FRB and FDIC Guidance on Unfair or Deceptive Acts or Practices by State-Chartered Banks, March 11, 2004; and OTS CEO Mem. # 347, "Unfair or Deceptive Acts or Practices: Examination Procedures," May 7, 2010. Federally insured credit unions are prohibited from using any advertising or promotional material that is inaccurate, misleading, or deceptive in any way concerning its products, services, or financial condition. 12 CFR 740.2. The OTS also has a regulation that prohibits savings associations from using advertisements or other representations that are inaccurate or misrepresent the services or contracts offered. 12 CFR 563.27. This regulation supplements its authority under the FTC Act.

[13] 12 U.S.C. 1766 and 1786.

[14] These principles are derived from the *Policy Statement on Deception,* issued by the Federal Trade Commission on October 14, 1983.

[15] 15 U.S.C. 45(n). *See also* the *Policy Statement on Unfairness,* issued by the Federal Trade Commission on December 17, 1980.

[16] *See* 12 CFR 226.33(b), 226.5b(d), 226.18, and 226.19

[17] 12 CFR 226.15 and 226.23. Requirements related to rescission rights and notices are not applicable, however, for home purchase transactions.

[18] *See* 12 CFR 226.33(b), 226.5b(d), 226.18, and 226.19.

[19] 12 CFR 226.19(b)(1).

[20] 12 CFR 226.20(c).

[21] *See* 15 U.S.C. 1648; 12 CFR 226.33(b)(2) and 226.33(c)(1) and related commentary in Supplement I to 12 CFR 226; and 12 CFR 226, Appendix K.

[22] Federal financial institution regulators also have the authority to supervise entities subject to their respective jurisdictions.

[23] HUD also provides model forms for HECMs. *See Home Equity Conversion Mortgage Handbook 4235.1* (available at *http://www.hud.gov/offices/adm/hudclips/handbooks/hsgh/4235.1/index.cfm*).

[24] Counselors are required to pass an examination to be included on a HUD roster before they can provide counseling on HECMs. *See* 24 CFR 206.300 *et seq.*

[25] *See* 12 U.S.C. 1715z–20.

[26] Applicable state laws, however, may have other requirements pertaining to counseling for reverse mortgages, including requirements that counseling be conducted in person.

[27] Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, § 2122(a)(9) (July 30, 2008).

Compliance and Reputation Risks

While reverse mortgages may provide a valuable source of funds for some borrowers, they are complex home-secured loans offered to borrowers who typically have limited income and few assets other than the home securing the loan.[28] Thus, lenders must institute controls to protect consumers and to minimize the compliance and reputation risks for the institutions themselves. These concerns and risks are especially pronounced with respect to proprietary products that are not subject to the core consumer protection provisions of the HECM program.

The Agencies are concerned that:

(1) Consumers may enter into reverse mortgage loans without understanding the costs,[29] terms, risks, and other consequences of these products, or may be misled by marketing and advertisements promoting reverse mortgage products;

(2) Counseling may not be provided to borrowers or may not be adequate to remedy any misunderstandings;

(3) Appropriate steps may not be taken to determine and to assure that consumers will be able to pay required taxes and insurance; and

(4) Potential conflicts of interest and abusive practices may arise in connection with reverse mortgage transactions, including with the use of loan proceeds and the sale of ancillary investment and insurance products.

Consumer Information and Understanding—Litigation, consumer complaints, and testimony before Congress about reverse mortgage products have provided both anecdotal evidence of misrepresentations to consumers and clear indications that borrowers do not consistently understand the terms, features, and risks of their loans.[30]

For example, consumers are not always adequately informed that reverse mortgages are loans that must be repaid (and not merely ways to access home equity). In fact, some marketing material has prominently stated that the consumer is not incurring a mortgage, even though the fine print states otherwise. Consumer misunderstanding about these matters also may be the result of advertisements declaring that reverse mortgage borrowers have no risk of losing their homes or are guaranteed to retain ownership of their homes for life. These advertisements do not clearly indicate the circumstances in which the reverse mortgage becomes immediately due and payable or in which borrowers may lose their homes. For example, advertisements that are potentially misleading include "income for life," "you'll never owe more than the value of your home," "no payments ever," and "no risk." Consumer misunderstanding also may be the result of misrepresentations that reverse mortgages constitute "government benefits" or a "government program," with no explanation that the products are loans made by private entities and that the only government program for reverse mortgages is the federally-insured HECM program.[31]

In addition, consumers may not be provided sufficient information about alternatives to reverse mortgages that may be more appropriate for their circumstances. Such alternative products include home equity lines of credit, sale-leaseback financing (under which the consumer sells the home and then leases it from the purchaser), and deferred payment loans. Consumers may not be aware that the fees for both HECMs and proprietary reverse mortgages—particularly up-front costs—may be higher than those for other types of mortgages, such as home equity lines of credit, that can be used to access a consumer's home equity.[32] Borrowers also may not receive sufficient information about other potential alternatives to reverse mortgages that may meet their financial needs, including state property tax relief programs, other public benefits, and community service programs.

The complex structure of reverse mortgages may prevent a borrower from fully understanding the products. For example, the ability to access the loan proceeds in a variety of ways may provide flexibility for a borrower. However, some payment options may adversely affect a borrower's ability to qualify for needs-based public benefits, such as Supplemental Security Income.

In addition, reverse mortgages are not typically structured with a requirement to escrow for taxes and hazard insurance (or for the lender to pay these amounts and add them to the loan balance). If the borrower does not pay taxes and insurance, the reverse mortgage itself may become due, which could result in the borrower losing the home. Without adequate analysis of the borrower's ability to make these required payments through available assets or loan proceeds, or the establishment of a set-aside or an escrow, in compliance with applicable laws,[33] both the borrower and the lender can face substantial risks. To ensure consumer understanding, institutions offering reverse mortgages should clearly advise consumers about their obligation to make direct payments for taxes and insurance if there is no provision for an escrow or set aside to pay these obligations.

Existence and Effectiveness of Consumer Counseling—Another risk to the consumer is that consumer counseling may not be effective. Further, while counseling is considered an integral part of the reverse mortgage process and is mandatory for HECM transactions, it may not be required for proprietary products, depending on applicable state law. Even when provided, consumer counseling may not be fully effective in helping borrowers make informed decisions about reverse mortgage products. Counseling conducted over the telephone, in particular, may not be adequate in all cases, in part because it may be more difficult for counselors to assess a borrower's understanding of the product over the telephone. More generally, counseling may not always provide all the relevant information or answer all questions and concerns raised by homeowners. For example, at least one study has suggested that a significant proportion of HECM borrowers who received counseling did not understand the costs and other features of their loans.[34]

Conflicts of Interest and Abusive Practices—The potential for inappropriate sales tactics and other abusive practices in connection with reverse mortgages is greater where the lender or another party involved in the transaction has conflicts of interest, or

[28] *See* note 3, *supra.*

[29] If a HECM borrower finances his or her closing costs, the closing costs are included in the outstanding balance of the loan. Costs of a HECM loan include an origination fee, third-party closing costs, a monthly servicing fee, and mortgage insurance premiums determined by an FHA formula.

[30] *See* Testimony presented at Hearings of the U.S. Senate Special Committee on Aging conducted on December 12, 2007, available on the internet at *http://aging.senate.gov/hearing_detail.cfm?id=296507. See also* AARP report reference in note 7, above.

[31] Regulation Z prohibits misrepresentations about government endorsements in advertisements for closed-end credit secured by a dwelling. 12 CFR 226.24.

[32] For example, HECMs carry upfront origination and mortgage insurance fees that may total four percent of the loan amount (in addition to other closing costs and ongoing insurance and servicing fees). In HERA, Congress required the U.S. Government Accountability Office (GAO) to study ways of reducing borrower costs and insurance premiums. *See* GAO report entitled: "Reverse Mortgages: Policy Changes Have Had Mostly Positive Effects on Lenders and Borrowers, but These Changes and Market Developments have Increased HUD's Risk" (GAO–09–836).

[33] *See* 24 CFR 206.205(e)(1) and 24 CFR 3500.17.

[34] *See* AARP, *Reverse Mortgage: Niche Product or Mainstream Solution,* Dec. 2007, at 72, 98 (available at *http://assets.aarp.org/rgcenter/consume/2007_22_revmortgage.pdf*).

has an incentive to market other products and services. For example, when a consumer obtains funds through a reverse mortgage, the consumer could also be offered financial products, such as annuities, or non-financial products, such as home repair services. Such products and services may be inconsistent with consumers' needs, and, on occasion, have been known to be associated with fraud. The risk is especially strong where, for example: (1) The lender or its affiliate engages in cross-marketing of another financial product; (2) the other product is sold at the same time as the reverse mortgage product; (3) a significant portion of the proceeds of the reverse mortgage is used to purchase another product; or (4) in contrast to the reverse mortgage itself, the other product would not provide the consumer with funds to meet emergency needs or to pay ordinary living expenses.

Guidance

The consumer protection concerns discussed above raise compliance and reputation risks for institutions offering reverse mortgages. The Agencies have developed the guidance set forth below to assist institutions in managing these risks effectively. Institutions should manage the compliance and reputation risks raised by reverse mortgage lending through implementation of communication, disclosure, and counseling practices such as those discussed below and by taking actions to avoid potential conflicts of interest. The Agencies will assess whether institutions have taken adequate steps to address the risks discussed in this guidance.

Lenders offering proprietary products should be especially diligent regarding effective compliance risk management since proprietary reverse mortgages are not subject to the consumer protection requirements applicable to HECM reverse mortgages.[35] Institutions offering proprietary reverse mortgage products should follow or adopt as appropriate, relevant HECM requirements, as amended from time to time, in the general areas of mandatory counseling, disclosures, restrictions on cross-selling of other products, and reliable appraisals. In addition, the Agencies expect institutions offering proprietary reverse mortgages to reasonably price such products, including with respect to origination fees, consistent with safe and sound banking practices, and appropriate consideration of costs, risks, and returns. Taking these steps would help to ensure that institutions are addressing the full range of consumer protection concerns raised by reverse mortgages. Moreover, the Agencies expect institutions to take appropriate steps to determine or ensure that consumers will be able to pay required taxes and insurance.

Communications with Consumers—Many of the consumer protection concerns regarding reverse mortgages relate to the adequacy of information provided to consumers. Institutions offering reverse mortgage products should take steps to manage compliance and reputation risks by providing consumers with information designed to help them make informed decisions when selecting financial products, including reverse mortgages and the options for receiving loan advances from them.

To promote effective risk management, institutions should review advertisements and other marketing materials to ensure that important information is disclosed clearly and prominently. For example, institutions should review the prominence of marketing claims and any related clarifying statements to ensure that potential borrowers are not misled or deceived. Institutions also are responsible for ensuring that marketing materials do not provide misleading information about product features, loan terms, or product risks, or about the borrower's obligations with respect to taxes, insurance, and home maintenance. The Agencies will evaluate potentially misleading marketing materials and take appropriate action to address any marketing that violates the FTC Act prohibition on deception or any other applicable law.

Institutions also should be attentive to the timing, content, and clarity of all information presented to consumers, from the moment a consumer begins shopping for a loan to the time a loan is closed. For example, institutions should develop clear and balanced product descriptions and make them available when a consumer is shopping for a mortgage—such as when the consumer makes an inquiry to the institution about a reverse mortgage and receives information about reverse mortgages, or when marketing materials relating to reverse mortgage are provided by the institution to the consumer—not just upon the submission of an application or at consummation.[36] Information is balanced when it fairly presents the risks and costs as well as the potential benefits of the product. The provision of timely and descriptive information would serve as an important supplement to the disclosures required by specific laws and regulations. The Agencies will review any information provided to consumers and take appropriate action to address any marketing that violates the FTC Act prohibition on deception or any other applicable law.

Accordingly, in order to assist consumers in their product selection decisions, an institution should use promotional materials and other product descriptions that provide information about the costs, terms, features, and risks of reverse mortgage products. This information would normally include but need not be limited to:

- Borrower and property eligibility;
- When marketing proprietary products, the fact that these reverse mortgages are not government insured and the resulting risks to consumers;
- Determination of principal limits, or maximum loan limits, based on home value, borrower age, expected interest rates, and program limitations;
- Lump sum and other disbursement options and their possible implications for the borrower's ability to obtain public benefits;
- The circumstances under which the loan must be repaid;
- The actions the borrower must take to prevent the loan from becoming in default and therefore due and payable, including the need to continue to pay taxes and insurance on the property and to maintain the property as required;
- Fees and charges associated with reverse mortgages;
- The requirement to make direct payments for real estate taxes and insurance if there is no provision for an escrow or a set-aside to pay these obligations;
- Alternatives to reverse mortgage products that are offered by the institution and may address the homeowner's needs; and
- The importance of reverse mortgage counseling and information about how to find a qualified independent counselor so that the borrower is

[35] HECM lenders must comply with requirements of the HECM program. This guidance is intended to supplement, and not conflict with, existing guidance and rules for HECM lenders. It is also intended to provide HECM lenders guidance on managing compliance and reputation risks.

[36] When developing consumer information, institutions should: (1) Focus on information that is important to consumer decision making; (2) highlight key information so it will be noticed; (3) employ a user-friendly and readily navigable format for presenting the information; and (4) use plain language, with concrete and realistic examples. A consumer may benefit from comparative tables describing key features of reverse mortgages (including the different draw options).

informed about possible alternatives to a reverse mortgage, the potential consequences of entering into a reverse mortgage, and the potential effect on eligibility for needs-based public benefits.

The Agencies recognize that institutions may not be able to incorporate all of the practices recommended in this guidance when advertising reverse mortgages through certain forms of media, such as radio, television, or billboards. Nevertheless, institutions should seek to provide clear and balanced information about the risks and costs as well as the benefits of these products in all forms of advertising. An advertisement that says "We offer reverse mortgages to borrowers who are 62 or older. Call us for more information" is clear and balanced because it does not make any representations about the benefits or risks of the product, and is not deceptive or misleading.

Qualified Independent Counseling—To further promote consumer understanding and manage compliance risks, reverse mortgage lenders offering proprietary products should require that the consumer obtain counseling from qualified independent counselors before an institution processes an application for a reverse mortgage loan or charges an application fee. Before counseling, institutions may provide information to consumers that both consumers and counselors may find useful in evaluating proprietary and HECM reverse mortgages. For example, the institution may explain the difference between proprietary and HECM products; discuss whether the borrower is eligible; provide information on fees; and provide a copy of a sample mortgage, note, and loan agreement. In addition, if an institution does not charge a fee to the consumer, it may use an automated valuation model to perform a preliminary assessment of the value of the consumer's property.

To ensure the independence of counselors, institutions should adopt policies that prohibit steering a consumer to any one particular counseling agency and that prohibit contacting a counselor on the consumer's behalf. For example, institutions could provide a list of counseling agencies that provide reverse mortgage counseling.[37] Similarly, an institution's policies should prohibit the institution from contacting a counselor to discuss a particular consumer, a particular transaction, or the timing or content of a counseling session unless the consumer is involved. Institutions should also strongly encourage borrowers to obtain counseling in person, whenever possible, and to attend counseling sessions with family members. Family members or other trusted individuals may be able to help explain the transaction and its consequences to the consumer.

Institutions should be aware that the purpose of the counseling session is to provide adequate time to discuss these matters in detail and to address questions and concerns raised by homeowners, and to inform the consumer about the following and other relevant matters:

- The availability of other housing, social service, health, and financial options;
- Financing options other than reverse mortgages, including other mortgage products, sale-leaseback financing, and deferred payment loans;
- The differences between HECM loans and proprietary reverse mortgages;[38]
- The financial implications and tax consequences of entering into a reverse mortgage;
- The impact of a reverse mortgage on eligibility for federal and state needs-based assistance programs, including Supplemental Security Income; and
- The impact of the reverse mortgage on the estate and heirs.

The Agencies note that the provision of such information would be consistent with HUD guidance regarding consumer counseling in connection with HECM loans.

Avoidance of Potential Conflicts—To manage the compliance and reputation risks associated with reverse mortgages, institutions should take all reasonably necessary steps to avoid any appearance of a conflict of interest and violation of applicable laws and rules. For example, an institution should:

- Adopt clear written policies and internal controls designed to ensure that the institution does not violate any applicable anti-tying restrictions.[39] For example, an institution risks violations if it: (1) Requires the borrower to purchase any annuity, insurance or any product other than a traditional banking product in order to obtain the reverse mortgage from the institution or an affiliate, or (2) varies the price of the reverse mortgage based on a condition that the borrower purchase such other product. Further, the Agencies expect that institutions will not do either of these things indirectly through brokers acting as agents;
- Adopt clear written policies and internal controls designed to ensure that the institution complies with restrictions designed to avoid conflicts of interest.[40] For example, an institution risks violations if it requires the borrower to purchase any annuity, insurance (other than appropriate title, flood or hazard insurance), or similar financial product from the institution or third party in order to obtain the reverse mortgage from the institution or broker;
- Adopt clear policies designed to ensure that loan originators and brokers acting on behalf of an institution do not have an inappropriate incentive to sell other products that may appear to be linked to the granting of a reverse mortgage or to engage in inappropriate cross-marketing of other products. Such policies should ensure that any such cross-selling is clearly consistent with the FTC Act standards; and
- Adopt clear compensation policies to guard against other inappropriate incentives for loan officers and third parties, such as mortgage brokers and correspondents, to make a loan.

In addition, conflicts are less likely to be a concern if the borrower has received information and access to independent counseling as described above.

Policies, Procedures, and Internal Controls—Institutions should have policies and procedures to address the concerns expressed in this guidance, including those involving conflicts of interest and the provision of consumer information. In addition, institutions

[37] HECM lenders must provide a list of 10 counselors for reverse mortgages. HUD Mortgagee Letter 2009–10.

[38] Because counselors may not be knowledgeable on all proprietary products, an institution may provide relevant information about its proprietary products to a consumer before the counseling session in order to facilitate the counseling session.

[39] The anti-tying provisions of Section 106(b) of the Bank Holding Company Act of 1970 for banks and their subsidiaries, as applicable, and comparable anti-tying provisions for savings associations, savings and loan holding companies, and their affiliates prohibit these institutions from, among other things, requiring a customer to purchase certain nonbanking products or services, including insurance and annuity products, from the institution or an affiliate as a condition to obtaining or varying the price of credit. Exceptions from these anti-tying prohibitions are permitted if the required products are loans, discounts, deposits, or trust services (*i.e.,* traditional banking products). *See* 12 U.S.C. 1464(q), 1467a(n), and 1972. 12 CFR 225.7. In addition, banks and savings associations that offer insurance and annuities are specifically prohibited from engaging in practices that would cause a consumer to believe that an extension of credit is conditioned on the purchase of insurance or an annuity from the creditor. *See* 12 U.S.C. 1831x and Consumer Protection in Sales of Insurance Rules, 12 CFR 14.30, 208.83, 343.30, and 536.30. The Agencies examine institutions for compliance with these legal requirements and will take appropriate action to address any violations. Tying arrangements also remain subject to the general antitrust laws.

[40] *See* 12 U.S.C. 1715z–20(n)–(o) for anti-tying provisions related to HECMs.

should have effective internal controls to monitor whether actual practices are consistent with their policies and operating procedures relating to reverse mortgages. To achieve these objectives, training should be designed so that relevant lending personnel are able to convey information to consumers about product terms and risks in a timely, accurate, and balanced manner. Furthermore, institutions' independent monitoring should assess how well lending personnel are following internal policies and procedures and evaluate the nature and extent of policy exceptions. Findings should be reported to relevant management. In addition, institutions' legal and compliance reviews should include oversight of compensation programs to ensure that lending personnel are not improperly encouraged to direct consumers to particular products. Finally, institutions should also review consumer complaints to identify potential compliance and reputation risks.

Third Party Risk Management—When making, purchasing, or servicing reverse mortgages through a third party, such as a mortgage broker or correspondent, institutions should take steps to manage the compliance and reputation risks presented by such relationships. These steps would include: (1) Conducting due diligence and establishing criteria for entering into and maintaining relationships with such third parties; (2) establishing criteria for third-party compensation that are designed to avoid providing incentives for originations inconsistent with the institution's policies and procedures; (3) setting requirements for agreements with such third parties; (4) establishing internal procedures and systems to monitor ongoing compliance with applicable agreements, institution policies, and laws and regulations; and (5) implementing appropriate corrective actions in the event that the third party fails to comply with such agreements, policies, or laws and regulations. Due diligence and monitoring activities should include a review of promotional materials used by third parties to ensure compliance with the TILA, the FTC Act, and other laws, as applicable.

In addition, institutions should structure third party relationships so as not to contravene RESPA's general prohibition against paying or receiving any fee or other thing of value in exchange for the referral of business related to a reverse mortgage transaction. Fees must be paid only for the permissible services provided by the third party, consistent with the provisions of Section 8 of RESPA. Moreover, institutions should not accept fees from any third party without providing appropriate services to warrant any such fee.

Dated: July 26, 2010.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, August 3, 2010.

Jennifer J. Johnson,

Secretary of the Board.

By order of the Federal Deposit Insurance Corporation.

Dated: July 21, 2010.

Valerie J. Best,

Assistant Executive Secretary.

Dated: August 11, 2010.

By the Office of Thrift Supervision.

John E. Bowman,

Acting Director.

Dated: July 27, 2010.

By the National Credit Union Administration.

Debbie Matz,

Chairman.

[FR Doc. 2010–20286 Filed 8–16–10; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P; 753501–P

Federal Register

Tuesday,
August 17, 2010

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing Three Foreign Bird Species From Latin America and the Caribbean as Endangered Throughout Their Range; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R9–ES–2009–0092; 90100–16601–FLA–B6]

RIN 1018–AV76

Endangered and Threatened Wildlife and Plants; Listing Three Foreign Bird Species From Latin America and the Caribbean as Endangered Throughout Their Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status for three species of birds from Latin America and the Caribbean—the Andean flamingo (*Phoenicoparrus andinus*), the Chilean woodstar (*Eulidia yarrellii*), and the St. Lucia forest thrush (*Cichlherminia lherminieri sanctaeluciae*)—under the Endangered Species Act of 1973, as amended (Act).

DATES: This final rule is effective September 16, 2010.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov.* Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Branch of Foreign Species, Endangered Species Program, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703–358–2171.

FOR FURTHER INFORMATION CONTACT: Janine VanNorman, Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703–358–2171; facsimile 703–358–1735. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

In this final rule, we determine endangered status for the Andean flamingo (*Phoenicoparrus andinus*), the Chilean woodstar (*Eulidia yarrellii*), and the St. Lucia forest thrush (*Cichlherminia lherminieri sanctaeluciae*).

Previous Federal Actions

On November 24, 1980, we received a petition (1980 petition) from Dr. Warren B. King, Chairman of the International Council for Bird Preservation (ICBP), to add 60 foreign bird species to the List of Threatened and Endangered Wildlife (50 CFR 17.11(h)), including two species (the Chilean woodstar and the St. Lucia forest thrush) that are the subject of this final rule. In response to the 1980 petition, we published a positive 90-day finding on May 12, 1981 (46 FR 26464) for 58 foreign species, noting that 2 of the foreign species identified in the petition were already listed under the Act, and initiated a status review. On January 20, 1984 (49 FR 2485), we published a 12-month finding within an annual review on pending petitions and description of progress on all species petition findings addressed therein. In that notice, we found that all 58 foreign bird species from the 1980 petition were warranted but precluded by higher priority listing actions. On May 10, 1985, we published the first annual notice (50 FR 19761), in which we continued to find that listing all 58 foreign bird species from the 1980 petition was warranted but precluded. In our next annual notice, published on January 9, 1986 (51 FR 996), we found that listing 54 species from the 1980 petition, including the 2 species that are the subject of this final rule, continued to be warranted but precluded, whereas new information caused us to find that listing 4 other species in the 1980 petition was no longer warranted. We published additional annual notices on the remaining 54 species included in the 1980 petition on July 7, 1988 (53 FR 25511); December 29, 1988 (53 FR 52746); and November 21, 1991 (56 FR 58664), in which we indicated that listing the Chilean woodstar and the St. Lucia forest thrush, along with the remaining species in the 1980 petition, continued to be warranted but precluded.

On May 6, 1991, we received a petition (hereafter referred to as the 1991 petition) from ICBP, to add 53 species of foreign birds to the List of Endangered and Threatened Wildlife, including the Andean flamingo, also the subject of this final rule. In response to the 1991 petition, we published a positive 90-day finding on December 16, 1991 (56 FR 65207), for all 53 species, and announced the initiation of a status review. On March 28, 1994 (59 FR 14496), we published a 12-month finding on the 1991 petition, along with a proposed rule to list 30 African birds under the Act (15 each from the 1980 petition and 1991 petition). In that document, we announced our finding that listing the remaining 38 species from the 1991 petition, including Andean flamingo, was warranted but precluded by higher priority listing actions. On January 12, 1995 (60 FR 2899), we published the final rule to list the 30 African birds and reiterated the warranted-but-precluded status of the remaining species from the 1991 petition. We made subsequent warranted-but-precluded findings for all outstanding foreign species from the 1980 and 1991 petitions, including the three species that are the subject of this final rule, as published in our annual notice of review (ANOR) on May 21, 2004 (69 FR 29354), and April 23, 2007 (72 FR 20184).

Per the Service's listing priority guidelines (September 21, 1983; 48 FR 43098), our 2007 ANOR identified the listing priority numbers (LPNs) (ranging from 1 to 12) for all outstanding foreign species. The LPNs for the three species of birds in this final rule were as follows: Andean flamingo (LPN 2), Chilean woodstar (LPN 4), and St. Lucia forest thrush (LPN 3).

On January 23, 2008, the United States District Court for the Northern District of California ordered the Service to issue proposed listing rules for five foreign bird species, actions which had been previously determined to be warranted but precluded: Andean flamingo (*Phoenicoparrus andinus*), black-breasted puffleg (*Eriocnemis nigrivestis*), Chilean woodstar (*Eulidia yarrellii*), medium tree finch (*Camarhynchus pauper*), and St. Lucia forest thrush (*Cichlherminia lherminieri sanctaeluciae*). The court ordered the Service to issue proposed listing rules for these species by the end of 2008.

On July 29, 2008 (73 FR 44062), we published in the **Federal Register** a notice announcing our annual petition findings for foreign species. In that notice, we announced listing to be warranted for 30 foreign bird species, including the 5 species that are subject to the January 23, 2008, court order, of which 3 species are the subject of this final rule. The medium tree finch and black-breasted puffleg are the subjects of separate rules. The proposed rules for the medium tree finch and black-breasted puffleg published in the **Federal Register** on December 8, 2008 (73 FR 74434 and 73 FR 74427, respectively). The final rule for the black-breasted puffleg published on July 27, 2010 (75 FR 43844).

On December 24, 2008 (73 FR 79226), we published a **Federal Register** notice proposing endangered status for the Andean flamingo (*Phoenicoparrus*

andinus), the Chilean woodstar (*Eulidia yarrellii*), and the St. Lucia forest thrush (*Cichlherminia lherminieri sanctaeluciae*). We implemented the Service's peer review process and opened a 60-day comment period to solicit scientific and commercial information on the species from all interested parties following publication of the proposed rule.

Summary of Comments and Recommendations

In the proposed rule published on December 24, 2008 (73 FR 79226), we requested that all interested parties submit written comments on the proposal by February 23, 2009. We received one comment on the proposed rule from the public that did not support the proposal and one comment that supported the proposal; neither comment contained substantive information. We did not receive any requests for a public hearing.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from 12 knowledgeable individuals with scientific expertise that included familiarity with the Andean flamingo, Chilean woodstar, and St. Lucia forest thrush and their habitats, biological needs, and threats. We received responses from three of the peer reviewers, one for each of the species.

We reviewed all comments we received from the peer reviewers for substantive issues and clarifying information regarding the listing of the Andean flamingo, Chilean woodstar, and St. Lucia forest thrush. The peer reviewers generally concurred with our methods and conclusions and provided additional clarifications and suggestions to improve the final rule. Peer reviewer comments and information are addressed and incorporated into the final rule as appropriate.

Species Information and Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. The five factors are: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence.

Below is a species-by-species analysis of these five factors. The species are considered in alphabetical order, beginning with the Andean flamingo, and followed by the Chilean woodstar and the St. Lucia forest thrush.

I. Andean flamingo (*Phoenicoparrus andinus*)

Species Description

Flamingos (Phoenicopteridae) are gregarious, long-lived birds that inhabit saline wetlands and breed in colonies (del Hoyo 1992, pp. 509–519; Caziani *et al.* 2007, pp. 277). The Andean flamingo is the largest member of the Phoenicopteridae family in South America, reaching an adult height of 3.5 feet (ft) (110 centimeters (cm)) (Fjeldså and Krabbe 1990, p. 86). This waterbird is native to low-, medium-, and high-altitude wetlands in the Andean regions of Argentina, Bolivia, Chile, and Peru (BirdLife International (BLI) 2008, p. 1; del Hoyo 1992, p. 526), where it is locally known as "*flamenco andino,*" "*parina grande,*" "*pariguana,*" "*pariwana,*" and "*chururu*" (BLI 2006, p. 1; Castro and Varela 1992, p. 26; Davison 2007, p. 2; del Hoyo 1992, p. 526; Sáenz 2006, p. 185).

An adult Andean flamingo has a pale yellow face and pale pink coloring overall. Its upper plumage is brighter pink, with a deeper pink to wine red-colored neck, breast, and wing-coverts (feathers on the upper wing), and prominent black tertial feathers (feathers on the posterior portion of the wing). The bill is pale yellow with a black tip, and the legs and feet are yellow (BLI 2008, p. 1; del Hoyo 1992, p. 526). Young Andean flamingos are grayish in color and achieve full adult plumage in their third year (del Hoyo 1992, p. 526).

Andean flamingo is one of three flamingo species that are endemic to the high Andes of South America (Johnson *et al.* 1958, p. 299; Johnson 1967, p. 404; del Hoyo *et al.* 1992, p. 508; Line 2004, pp. 1–2; Caziani *et al.* 2007, p. 277; Arengo in litt. 2007, p. 2). All flamingos have pink plumage to varying degrees (del Hoyo 1992, p. 508). The Andean flamingo is distinguished from other South American flamingos by its size (it is the largest in the area), leg coloring (it is the only flamingo with yellow legs), and wing coloring (it has prominent black tertial feathers that form a "V" when the flamingo is not in flight) (BLI 2008, p. 1; del Hoyo 1992, p. 526).

Taxonomy

The Andean flamingo was first taxonomically described as *Phoenicopterus andinus* (Phoenicopteridae family), by Rodulfo Philippi in 1854 (Philippi 1860, p. 164; Hellmayr 1932, p. 448). In 1856, Bonaparte split the genus *Phoenicopterus,* placing the Andean flamingo in a separate genus, as *Phoenicoparrus andinus,* along with the sympatric (species inhabiting the same or overlapping geographical areas) James' flamingos (*P. jamesi*) (Hellmayr and Conover 1948, pp. 273–278; Jenkin 1957, p. 405). In 1990, Sibley and Monroe (1990, p. 311) suggested the Andean flamingo should be returned to the genus *Phoenicopterus,* based on the close genetic relatedness among all flamingo species (Sibley and Ahlquist 1989, as cited in Ramsen *et al.* 2007, p. 18). However, many contemporary researchers maintain that the Andean flamingo should remain within the genus *Phoenicoparrus,* based on bill morphology and the lack of a hind toe (BLI 2008, p. 1; Caziani *et al.* 2007, p. 276; del Hoyo *et al.* 1992, pp. 508–509; Fjeldså and Krabbe 1990, p. 86; Mascitti and Kravetz 2002, pp. 73–83; Valqui *et al.* 2000, p. 110). Therefore, we accept the species as *Phoenicoparrus andinus,* which is also consistent with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) species database (UNEP–WCMC 2008b, p. 1).

Habitat and Life History

Andean flamingos are native to the Andes Mountains, from southern Peru and southwestern Bolivia to northern Chile and northwestern Argentina. They occupy shallow wetlands, collectively called salars, which are characterized as shallow, often saline, lakes (known locally as "*lagos*" or "*lagunas*") with exposed salt-flats or mudflats (Boyle *et al.* 2004, pp. 563–564; Caziani *et al.* 2007, pp. 277; Hurlbert and Keith 1979, pp. 328). Andean flamingos also inhabit "bofedales," which are described as wet, marshy, perennial meadowlands (de la Fuente 2002, p. 1; Ducks Unlimited 2007c, p. 1). These wetlands are found at various elevations, including: (1) The high Andes, referred to as "*altiplano*" (Spanish for "high plains"), generally above 13,123 ft (4,000 meters (m)); (2) the "*puna*" (Spanish for "highlands"), between 9,843 and 13,123 ft (3,000 and 4,000 m); and (3) the lowlands, below 9,843 ft (3,000 m) (Caziani *et al.* 2001, p. 103; Caziani *et al.* 2007, p. 278). Andean flamingos generally occupy wetlands that are less than 3 ft (1 m)

deep (Fjeldså and Krabbe 1990, p. 86; Mascitti and Casteñera 2006, p. 331).

Most of the wetlands in which Andean flamingos are found are "endoreic," "endorheic," or closed. These terms refer to internally-draining water networks prevalent in the Andes that are characterized by rivers or bodies of water that do not drain into the sea, but either dry up or terminate in a basin (Caziani *et al.* 2001, p. 103; Hurlbert and Keith 1979, p. 328). The water levels at these basins expand and contract seasonally and depend in large part on summer rains to "recharge" or refill them (Bucher 1992, p. 182; Caziani and Derlindati 2000, pp. 124–125; Caziani *et al.* 2001, p. 110; Mascitti and Caziani 1997, p. 328).

Andean flamingos are altitudinal and opportunistic migrants (Goldfeder and Blanco 2007, p. 190). During the summer (December to January), Andean flamingos generally reside in the puna and altiplano regions of the Andes, at elevations between 11,483 and 14,764 ft (3,500 and 4,500 m). In the winter, they may move to lower elevations—down to 210 ft (64 m) above sea level—along the Peruvian coast and inland primarily to the central plains of Argentina, occasionally to Bolivia, and rarely to Paraguay (Blake 1977, p. 207; BLI 2008, pp. 1 and 6; Boyle *et al.* 2004, pp. 563–564, 570–571; Bucher 1992, p. 182; Bucher *et al.* 2000, p. 119; Caziani *et al.* 2006. p. 17; Caziani *et al.* 2007, pp. 277, 279, 281; del Hoyo 1992, p. 514, 519; Fjeldså and Krabbe 1990, p. 85; Hurlbert and Keith 1979, pp. 330; Kahl 1975, pp. 99–101; Mascitti and Bonaventura 2002, p. 360; Mascitti and Castañera 2006, p. 328; Romano *et al.* 2006, p. 17; Romano *et al.* 2008, pp. 45–47).

They disperse widely, even while nesting, and can travel long distances, flying from 249 mi (400 km) to 715 mi (1,150 km) daily (Caziani *et al.* 2003, p. 11; Caziani *et al.* 2007, p. 277; Conway 2000, p. 212; del Hoyo 1992, pp. 509–519; Fjeldså and Krabbe 1990, p. 85). Their movements are unpredictable and appear to be influenced by varying environmental conditions affecting the availability of wetlands (Bucher *et al.* 2000, p. 119; del Hoyo 1992, p. 514 and 516; Fjeldså and Krabbe 1990, p. 85). When climatic conditions are favorable, breeding takes place, and when climatic conditions are unfavorable, breeding is abandoned, very limited, or takes place at alternative, less-productive breeding grounds (e.g., Bucher *et al.* 2000, pp. 119–120).

All flamingos were believed to be monogamous, with a strong pair-bonding tendency that may be maintained from one breeding season to the next (del Hoyo 1992, p. 514). However, studies on greater flamingos (*Phoenicopterus ruber roseus*) show that mate-switching is common and they are only seasonally monogamous (Cezilly and Johnson 2005, p. 545). Andean flamingos nest at high densities, with breeding colonies consisting of up to thousands of pairs (del Hoyo 1992, p. 526). Andean flamingos reach sexual maturity between 3 and 5 years of age (Bucher 1992, p. 183). Breeding season for the Andean flamingo occurs in the summer, generally from December through February (BLI 2008, p. 2; del Hoyo *et al.* 1992, p. 516; Fjeldså and Krabbe 1990, p. 85; Hurlbert and Keith 1979, pp. 328), although the breeding season may begin as early as October and continue through April (Goldfeder and Blanco 2007, p. 190). Both sexes share in nest-building and nesting (Bucher 1992, p. 182). Nests are built on the miry clay or transient islands of shallow lakes (del Hoyo 1992, pp. 514, 516). Each nest consists of a clay mound, up to 16 inches (in) (40 cm) high, with a small depression on top (del Hoyo *et al.* 1992, p. 516; Fjeldså and Krabbe 1990, p. 85). Flamingos lay a single white egg, usually in December or January, and incubation lasts about 28 days (del Hoyo *et al.* 1992, p. 526). If the egg is destroyed from flooding or predation, the pair may re-clutch (lay a replacement egg), but only if the loss occurs within a few days of the first egg being laid (del Hoyo *et al.* 1992, p. 516).

Chicks remain in the nest 5–12 days, during which time both the parents feed the chick with "milk" secretions formed by glands in their upper digestive tracts (Fjeldså and Krabbe 1990, p. 85; del Hoyo *et al.* 1992, p. 513). Feeding is shared by parents, in approximately 24-hour shifts (Bucher 1992, p. 182). When flamingo chicks leave the nest, they form large nursery crèches (groups) of hundreds or thousands of birds that are tended by a few adults (del Hoyo *et al.* 1992, p. 516).

Flamingo breeding habits can vary widely from year to year. Flamingos may breed in large numbers for 2 or more successive years, followed by other years in which there is no known breeding. Not all sexually mature adults breed every year and, even in years of breeding, not all sexually mature adults will participate (Bucher 1992, p. 183). Flamingos are generally considered to have poor breeding success (Fjeldså and Krabbe 1990, p. 85), and Andean flamingos, in particular, have experienced periods of very low breeding success over the past 20 years (Arengo in litt. 2007, p. 2) (See Population Estimates, below). Juvenile mortality rates during dispersal are unknown (Caziani *et al.* 2007, p. 284), and adult survival is considered to be "very high" (Fjeldså and Krabbe 1990, p. 85). Andean flamingos are long-lived, with an average lifespan of 20 to 30 years. Some wild adults live up to 50 years (BLI 2008, p. 2; del Hoyo *et al.* 1992, p. 517). Recent trends in breeding success are further discussed under Population Estimates, below.

Andean flamingos are wading filter-feeders, often forming large feeding flocks at wetlands alongside sympatric flamingos, Chilean flamingos (*Phoenicopterus chilensis*), and James' flamingos (del Hoyo 1992, p. 512; Mascitti and Castañera 2006, pp. 328–329). Andean flamingos feed principally on diatoms (microscopic one-celled or colonial algae) (Mascitti and Kravetz 2002, p. 78), especially those in the genus *Surirella* (no common name), which is a dominant component of surface sediments at the bottom of many altiplano lakes in the Andes (Fjeldså and Krabbe 1990, p. 86; Hurlbert and Chang 1983, p. 4768).

Historical Range and Distribution

The Andean flamingo type specimen (the specimen that was first described by Philippi in 1854) was collected from Salar de Atacama, in Antofagasta Province (Chile) (Hellmayr 1932, p. 312). Salar de Atacama is, therefore, referred to as the "type locality." The species was subsequently reported in Argentina in 1872 (Provinces of Jujuy and Tucumán) (Burmeister 1872, p. 364; Hellmayr and Conover 1948, p. 277), Peru (Departments of Salinas and Arequipa) in 1886 (Hellmayr 1932, p. 312; Hellmayr and Conover 1948, p. 277; Weberbauer 1911, p. 27), and Bolivia in 1902 (Department of Oruru) (Hellmayr and Conover 1948, p. 277; Johnson *et al.* 1958, p. 289).

The species' movements and distribution within its range were not understood throughout much of the 20th century. Early researchers considered the Andean flamingo to be relatively sedentary (Jenkin 1957, p. 405; Johnson *et al.* 1958, pp. 297–298), with a distribution that did not extend below 10,000 ft (3,048 m) (Hellmayr 1932, p. 25; Johnson 1967, p. 405). Later researchers remarked on the nomadic nature of the species (McFarlane 1975, p. 88) and reported lower limits to the species' distribution (i.e., 8,200 ft (2,500 m) (Kahl 1975; pp. 99–100)). Hurlbert and Keith (1979, pp. 334, 336) noted a seasonal variance in the species' altitudinal distribution, and Bucher (1992, p. 182) noted that migration might take place between Chilean breeding grounds and Argentinian wetlands.

Current Range and Distribution

The current range of the Andean flamingo extends from Peru, through Chile and Bolivia, to Argentina, in wetlands at elevations ranging from sea level (in southern Peru) to 14,764 ft (64 to 4,500 m) (Arengo 2009, p. 16; BLI 2008, pp. 1, 6; Bucher 1992, p. 192; Bucher *et al.* 2000, p. 119; del Hoyo 1992, pp. 514; Fjeldså and Krabbe 1990, p. 85). In 1989, an immature Andean flamingo—that had been banded in Chile earlier that year—was captured in Brazil (Sick 1993, p. 154). There were additional sightings of the Andean flamingo in Brazil in the 1990s (Bornschein and Reinert 1996, pp. 807–808). However, the species is considered a nonbreeding "vagrant" in Brazil (BLI 2008, p. 5).

Its total extent of occurrence (including sites where breeding does not occur) is estimated as 124,711 square miles (mi^2) (323,000 square kilometers (km^2)). The estimated area in which the species is known to breed and reside year-round is 72,973 square miles (mi^2) (189,000 square kilometers (km^2)) (BLI 2008, p. 4).

The species' seemingly erratic movements and ability to disperse widely, combined with the harsh climatic conditions and the inaccessibility of flamingo habitat, have made it difficult for researchers to fully understand their seasonal movements and breeding habits (Bucher *et al.* 2000, p. 119; del Hoyo 1992, p. 514; Fjeldså and Krabbe 1990, p. 85) (see also Habitat and Life History, above). Researchers have long considered Chilean wetlands to be the primary breeding grounds for the species (Bucher *et al.* 2000, p. 119; Ducks Unlimited 2007c, pp. 1–4; Fjeldså and Krabbe 1990, p. 86; Johnson *et al.* 1958, p. 296; Kahl 1975 p. 100), although between 2005 and 2008, Andean flamingos bred in significant numbers in Bolivia (Laguna Colorada, Laguna Khara) and smaller colonies have been observed in Argentina (Laguna de Vilama, Laguna Grande) (Arengo 2009, p. 17). Researchers have only recently confirmed that the species is an altitudinal and opportunistic migrant (Goldfeder and Blanco 2007, p. 190). Simultaneous censuses undertaken since 1997 confirmed that Andean flamingos migrate altitudinally. In the summer, most of the population is concentrated primarily in Chile, and to a lesser extent in Argentina and Bolivia. In winter, the species may converge in certain Chilean and Peruvian wetlands (Valqui *et al.* 2000, p. 111), with relatively large numbers of birds overwintering in Bolivia and Argentina in some years (Caziani *et al.* 2007, pp. 279, 281; Romano *et al.* 2008, pp. 45–47). Recent banding studies confirmed that Andean flamingos at high-altitude wetlands move to lower altitude lakes, where weather conditions are less severe (Rocha and Rodriguez 2006, p. 12).

Andean flamingos occupy some wetlands year round (where they may or may not breed), some wetlands only during the summer breeding season, and other wetlands only in winter (see Table 1). Recent research established that there is an important, complementary link between breeding and nonbreeding wetlands frequented by Andean flamingos (Derlindati 2008, p. 10). Research in Argentina at highland (breeding) and lowland (non-breeding) sites indicated that, regardless of season, Andean flamingos spend the majority of their time eating (Derlindati 2008, p. 10). They will travel to different wetlands to feed, even while nesting (Bucher 1992, p. 182; Caziani *et al.* 2007, p. 277; Conway 2000, p. 212; del Hoyo 1992, pp. 509–519). Research in Argentina at high-elevation breeding sites and low-elevation nonbreeding sites indicated that given the timing of courtship in the annual cycle, lowland sites were important in providing foraging and courtship habitat necessary for successful breeding at high-altitude sites (Derlindati 2008, p. 10).

Several Andean flamingo localities in each range country are described below and in Table 1, organized in alphabetical order by country and name of wetland. This is not an exhaustive accounting of all known wetlands occupied by the species, but includes sites that are frequented by the species or are otherwise notable, such as recently discovered breeding sites. In Table 1, "Type" indicates whether the site is known as a breeding (B) or non-breeding (NB) wetland. In most cases, NB indicates that the species overwinters at the wetland. However, in some cases, Andean flamingos occupy a wetland year-round, but no breeding occurs there. Habitat information was obtained primarily from Ducks Unlimited (2007a–d) and BirdLife International (2008).

TABLE 1—SELECTED ANDEAN FLAMINGO NESTING AND OVERWINTERING WETLANDS IN ARGENTINA, BOLIVIA, CHILE, AND PERU

Country	Wetland	Department	Elevation in feet/meters	Area in acres/hectares	Type	Description/comments
Argentina	Laguna Brava	La Rioja	13,780 ft/4,200 m	1,977 ac/800 ha ...	B/NB	Large lake associated with an endoreic (closed) river basin that includes Laguna de Mulas Muertas.
Argentina	Laguna de Melincué.	Santa Fe	276–295 ft/84–90 m.	29,653 ac/12,000 ha.	NB	One of two lowest-elevation endoreic wetlands used by Andean flamingos.
Argentina	Lagunas de los Aparejos.	Catamarca ...	13,911 ft/4,240 m	343 ac/139 ha	B/NB	Shallow lagoon in a larger lagoon system that is lacking in aquatic vegetation.
Argentina	Laguna de Mar Chiquita.	Córdoba	210–230 ft/64–70 m.	494,211 ac/200,000 ha.	B/NB	Large, permanent, hypersaline, seasonally fluctuating lake is the lowest-elevation locality.
Argentina	Laguna de Mulas Muertas.	La Rioja	13,123 ft/4,000 m	1730 ac/700 ha	NB	Located near and part of the same endoreic river basin as Laguna Brava.
Argentina	Laguna de Pozuelos.	Jujuy	11,483 ft/3,500 m	24,710 ac/10,000 ha.	B/NB	Central lake within endoreic basin with lower water levels and extensive mudflats in winter.
Argentina	Laguna Guayatayoc.	Jujuy	12,008 ft/3,660 m	247,104 ac/100,000 ha.	NB	Part of large salt basin where endoreic waters form shallow, brackish-to-hypersaline lakes.

TABLE 1—SELECTED ANDEAN FLAMINGO NESTING AND OVERWINTERING WETLANDS IN ARGENTINA, BOLIVIA, CHILE, AND PERU—Continued

Country	Wetland	Department	Elevation in feet/ meters	Area in acres/ hectares	Type	Description/comments
Argentina	Laguna Vilama	Jujuy	14,436 ft/4,400 m	19,768 ac/8,000 ha.	B/NB	Large, permanent endoreic lake, prone to wide water fluctuations and winter freezes.
Bolivia	Lago Poopó	Oruro	12,090 ft/3,685 m	330,380 ac/ 133,700 ha.	NB	Large, shallow saline lake in same ancient endoreic river basin as Lago Uru Uru.
Bolivia	Lago Uru Uru	Oruro	12,126 ft/3,696 m	69,190 ac/28,000 ha.	NB	Along with Lago Poopó, experiences wide fluctuations in water level.
Bolivia	Laguna Colorada	Potosí	13,944 ft/4,250 m	12,948 ac/5,240 ha.	B/NB	Hypersaline endoreic lake fed by streams and thermal springs, with shores that freeze at night.
Bolivia	Laguna Kalina or Busch.	Potosí	14,862 ft/4,530 m	3,954 ac/1,600 ha	B/NB	Hypersaline lake associated with the same endoreic water basin as Laguna Colorada.
Bolivia	Laguna de Pastos Grandes.	Oruro	13–15,000 ft/4–4,500 m.	37,066 ac/15,000 ha.	B/NB	Group of small, permanent saline lakes in an ancient caldera fed by underground sources.
Bolivia	Salar de Chalviri ..	Potosí	14,396 ft/4,388 m	28,417 ac/11,500 ha.	NB	Basin of many small lakes separated by saltflats, fed by small streams and thermal springs.
Bolivia	Salar de Coipasa	Oruro	12,112 ft/3,692 m	548,077 ac/ 221,800 ha.	B/NB	Large salt basin and shallow hypersaline lake, receiving water from Río Lauca.
Bolivia	Laguna de Saquewa.	Oruro	13,123 ft/4000 m ..	.....	NB	Hypersaline lake associated with Rio Lauca system, receives input from external afluents and underground waters.
Chile	Lago del Negro Francisco.	Atacama	13,123 ft/4,000 m	6,919 ac/2,800 ha	B/NB	Large high-altitude permanent lake surrounded by bofedales.
Chile	Salar de ..... Ascotán	Antofagasta	12,211 ft/3,722 m	93,406 ac/37,800 ha.	B/NB	High-altitude salt basin with many saline lakes on perimeter, fed by several freshwater springs.
Chile	Salar de Atacama	Antofagasta	7,546 ft/2,300 m ...	691,895 ac/ 280,000 ha.	B/NB	Endoreic salt basin with fluctuating water levels from summer storms and snowmelt.
Chile	Salar de Coposa ..	Tarapacá	12,376 ft/3,730 m	21,003 ac/8,500 ha.	B/NB	Endoreic salt with small lagoon that fluctuates greatly in size.
Chile	Salar de Huasco ..	Tarapacá	13,123 ft/4,000 m	14,826 ac/6,000 ha.	B/NB	Salt basin receiving summer rains and fed by snow melt bogs and bofedales.
Chile	Salar de Surire	Tarapacá	13,583 ft/4,140 m	61,776 ac/25,000 ha.	B/NB	Permanent saline lake.
Peru	Lago Parinacochas.	Ayacucho	10,738 ft/3,273 m	16,556 ac/6,700 ha.	NB	Shallow, large, brackish endoreic lake and marshes with exposed salt flats in dry season.
Peru	Laguna de Loriscota.	Puno	15,299 ft/4,663 m	8525 ac/3,450 ha	NB	Permanent, shallow hypersaline lake surrounded by bofedales.
Peru	Laguna Salinas	Arequipa	14,091 ft/4,295 m	17,544 ac/7,100 ha.	NB	Semipermanent, shallow hypersaline lake with freshwater springs and bofedales on perimeter.

Argentina: Several wetlands in Argentina provide year-round habitat for the Andean flamingo (see Table 1). The species breeds and overwinters regularly at Laguna de Pozuelos and Lagunas de Vilama (Caziani & Derlindati 2000, p. 121; Caziani *et al.* 2001, p. 113; Caziani *et al.* 2006, p. 13; Caziani *et al.* 2007, p. 279; Ducks Unlimited 2007a, pp. 1–4). The Vilama wetlands system (Lagunas de Vilama) is comprised of 12 lakes: Arenal, Blanca, Caiti, Catal, Cerro Negro, Colpayoc, Guinda, Honda, Isla Grande, Palar, Pululos, and Vilama (Caziani and Derlindati 2000, p. 122; Caziani *et al.* 2001, p. 103). During a 3-year study, Andean flamingos occupied eight of the nine lakes, but were especially concentrated on Laguna Vilama and Laguna Catal (Caziani and Derlindati 2000, p. 125). Caziani *et al.* 2001 (p. 104) determined that the Vilama wetland system provided a variety of spatial and seasonal ecological conditions on the landscape level, such that a range of options existed from which Andean flamingos could select habitat at any given time during the year. They further suggest that similar landscape-level relationships between wetlands exist, even when the wetlands are not located within the same basin (Caziani *et al.* 2001, p. 110). The Lagunas de Vilama wetland has harbored up to 30 percent of Andean flamingos during the breeding season (Caziani & Derlindati 2000, p. 121; Caziani *et al.* 2006, p. 13).

In recent decades, the species has nested or overwintered in locations not previously recorded. In January 1998, the first account of Andean flamingos nesting was reported at Laguna Brava (Bucher *et al.* 2000, p. 119), which was long known as an overwintering site for

the species (Caziani *et al.* 2007, p. 279). Since 1998, Laguna Brava has continued to provide isolated nesting sites (de la Fuente 2002, p. 6). Also in January 1998, large numbers of nonbreeding birds were reported at Laguna de Mulas Muertas, just 4 mi (7 km) from Laguna Brava (Bucher *et al.* 2000, p. 120). Researchers attribute both the large number of breeding birds at Laguna Brava and the large number of nonbreeding birds at Laguna de Mulas Muertas to unusual rainfall patterns that year (Bucher *et al.* 2000, p. 120). In March 2001, chicks were observed at Lagunas de los Aparejos (Caziani *et al.* 2007, pp. 279, 283), part of a lagoon system with Laguna Azul and Laguna Negra (BLI 2008, p. 50). Normally known as a nesting site for the James' flamingo (Childress 2005, p. 6), this may now be a nesting site for the Andean flamingo as well (BLI 2008, p. 50).

Andean flamingos overwinter at both high- and low-elevation wetlands in Argentina. Laguna Guayatayoc is a high-elevation overwintering site for Andean flamingos (Ducks Unlimited 2007a, pp. 1–4), where the species has sometimes been reported in relatively large numbers (Caziani *et al.* 2001, p. 116; Caziani *et al.* 2007, p. 279). Laguna de Mar Chiquita is the lowest-elevation wetland frequented by the Andean flamingo (Bucher et al 1992, p. 119; Caziani *et al.* 2007, p. 279; Derlindati 2008, pp. 6–7). Long known as an overwintering site, researchers report that a small group of Andean flamingos (about 100 individuals) may reside there year round (BLI 2008, p. 1; Bucher 1992, pp. 179, 182), and breeding has recently been reported there (Childress *et al.* 2005, p. 6). Laguna de Melincué is another low-elevation overwintering site for Andean flamingos (Caziani *et al.* 2007, p. 279). Although breeding has not been reported there (Childress *et al.* 2005, p. 6), the species engages in nuptial displays vital to reproductive success in the breeding colonies (Derlindati 2008, p. 9). Researchers estimated that in recent years, between 17 and 30 percent of the world population of Andean flamingos overwintered at Laguna de Melincué in winter (Romano et al 2006a, p. 17; Romano *et al.* 2008, pp. 45–47). A recent winter monitoring carried out in lowland wetlands of the southern Santa Fe province (that include Melincué and three other nearby wetlands) has dramatically increased the numbers of Andean Flamingos previously recorded in Argentinean lowland wetlands, reaching 61 percent of the global population (Romano *et al.* 2008, pp. 45–47).

Bolivia: There are at least 10 flamingo nesting sites in Bolivia (Caziani *et al.* 2006, p. 13). Laguna Colorada is a high-altitude wetland where Andean flamingos remain year-round and where they have recently nested with greater frequency (see Factor B) (BLI 2008, p. 1; Caziani *et al.* 2006, p. 13; Caziani *et al.* 2007, p. 279; Davison 2007, p. 1; Ducks Unlimited 2007b, pp. 14; Kahl 1979, p. 100). Laguna Kalina (also known as Laguna Calina and Laguna Busch) has recently figured prominently as a nesting location. Chicks were first reported there in 1997 (Valqui *et al.* 2000, p. 112), and nesting has been reported there, at small but consistent rates, in 2004, 2005, and 2006 (Childress *et al.* 2005, p. 6; Childress *et al.* 2006, p. 5; Childress *et al.* 2007a, p. 7).

Salar de Pastos Grandes is another lake system that includes Laguna de Pastos Grandes, Laguna Ramaditas, Laguna Hedionda, Laguna Cañapa, Laguna Cachi, Laguna Khara, Laguna Chulluncani, and Laguna Khar Khota (Ducks Unlimited 2007b, p. 13). This wetland complex provides breeding and non-breeding habitat.

Non-breeding year-round wetlands in Bolivia include: Lago Uru Uru (Ducks Unlimited 2007b, p. 5–8; Kahl 1975, p. 100; Mølgaard *et al.* 1999; Rocha *et al.* 2006, p. 18); Salar de Chalviri (Ducks Unlimited 2007b, pp. 17–20; Hurlbert & Keith 1979, p. 331); Lago Poopó, a known locality since 1921 (Caziani *et al.* 2007, p. 279; Hellmayr & Conover 1948, p. 277; Johnson 1967, p. 404); and Salar de Coipasa, a wintering site of known importance for all three South American flamingo species since the mid-20th century (Johnson 1967, p. 404; Ducks Unlimited 2007c, p. 9). These lakes are hydrologically connected through the Titicaca-Desaguadero-Poopó-Salar de Coipasa (TDPS) basin, a large endoreic (closed) basin shared between Peru, Bolivia, and Chile (Jellison *et al.* 2004, p. 11). Several Andean flamingo wetlands are connected to this hydrological basin through rivers, including: Lago Poopó (Bolivia), which is connected to Lago Titicaca (Peru) through Río Desaguadero; Salar de Coipasa (Bolivia), which is connected to Lago Poopó through Río Laca Jahuira River (Jellison *et al.* 2004, p. 11); and Lago Uru Uru, which is fed by Río Desaguadero (Ducks Unlimited 2007b, p. 5). In 2000, more than 50 percent of the known population of Andean flamingos overwintered at Lagos Uru Uru and Poopó (Caziani *et al.* 2007, p. 279).

Laguna Saquewa and Laguna Macaya are also important sites for the three flamingo species. During winter, Andean Flamingo numbers can reach up to 2,000.

Chile: There are at least a dozen Andean flamingo breeding sites in Chile (Childress *et al.* 2006, p. 7). Salar de Atacama, where the Andean flamingo type specimen was obtained in 1854 (Hellmayr 1932, p. 312; Philippi 1860, p. 164), has been a consistent and primary breeding ground (Bucher *et al.* 2000, p. 119; Childress *et al.* 2007a, p. 7; Ducks Unlimited 2007c, pp. 1–4; Johnson *et al.* 1958, p. 296). Several other sites have figured consistently and prominently over the years, including Salar de Surire, Salar de Huasco, and Salar de Ascotán (Fjeldså and Krabbe 1990, p. 86; Johnson *et al.* 1958, p. 296; Kahl 1975 p. 100). Andean flamingos were first observed at Salar de Surire in the early 1970s (McFarlane 1975, p. 88). The first report of breeding (observation of chicks) there occurred in 1997 (Valqui *et al.* 2000, p. 112), and breeding has continued there at increasing numbers (Caziani *et al.* 2007, p. 283). Laguna Ascotán differs from most other Andean flamingo wetlands, as it is fed by 13 freshwater springs as well as several brackish lagoons (Vilina and Martínez 1998, p. 28). In addition, Salar de Coposa has long served as breeding and overwintering habitat for the Andean flamingo (Caziani *et al.* 2007, p. 279; Johnson 1958, p. 297; Kahl 1975 p. 100).

Salar de Atacama, Salar de Coposa, Salar de Huasco, Salar de Negro Francisco, and Salar de Surire also provide year-round habitat for the Andean flamingo (Caziani *et al.* 2006, p. 13; Caziani *et al.* 2007, p. 279; Ducks Unlimited 2007c, pp. 5–8; Johnson 1958, p. 296). In 1998 and 2000, between 3,500 and 4,500 birds overwintered at these sites (Caziani *et al.* 2007, p. 279).

Peru: Andean flamingos frequent several wetlands in Peru (BLI 2008, pp. 5, 72, 74–75, 78; Ducks Unlimited 2007d, pp. 21, 25, 29; Jameison and Bingham 1912, p. 14; Ricalde 2003, p. 91). Although BirdLife International reports breeding sites in Peru (2008, p. 2), the Flamingo Specialist Group reported no known nesting sites or evidence of breeding at Peruvian wetlands in 2005, 2006, or 2007 (M. Valqui Munn, in litt., as cited in Childress *et al.* 2005, p. 6; Arengo in litt., as cited in Childress *et al.* 2006, p. 6; Arengo in litt., as cited in Childress *et al.* 2007a, p. 7). The species frequently overwinters at Laguna Salinas, Laguna Loriscota, Laguna Vizcachas, and Lago Parinacochas, among other locations (Caziani *et al.* 2007, p. 279; Ducks Unlimited 2007d, p. 21, 25, 29–30; Jameison and Bingham

1912, p. 14). It is estimated that nearly 20 percent of the global population overwinters in Peru (Ricalde 2003, p. 91).

Recent Trends in Distribution: In 1997, 50 percent of the breeding population (of breeding age) was distributed among three sites in Chile (Salar de Surire, Laguna Maricunga, and Laguna Negro Francisco) and two sites in Argentina (Pozuelos and Vilama) (Caziani *et al.* 2007, p. 279). In the summer of 2005, 50 percent of the breeding population was located in 5 separate wetlands—Negro Francisco (Chile), Salar de Surire (Chile), Lagunas de Vilama (Argentina), Laguna Colorada (Bolivia), and Salar de Atacama (Chile) (Caziani *et al.* 2006, p. 13).

Population Estimates

Between 1965 and 1968, Charles Cordier's estimate of the Andean flamingo population varied by an order of magnitude, from 50,000 to 500,000 (as cited in Johnson 1967, p. 404; as cited in Kahl 1975, p. 100). In 1975, Kahl (1975, p. 100) estimated the total population to be 150,000 individuals. This estimate was based on (1) previous estimates; (2) the fact that the largest number of individuals Kahl had seen in one place (Lago Uru Uru, Bolivia) was 18,000 individuals; and (3) that, at most sites, he observed the Andean flamingo to be less numerous than the Chilean flamingo and James' flamingo. In 1986, the population was estimated to be less than 50,000 individuals and declining (Johnson 2000, p. 203). However, the accuracy of earlier population estimates has never been confirmed. According to Arengo (in litt. 2007, p. 2), a member of the Altoandino Flamingo Conservation Group (Grupo de Conservación Flamencos Altoandinos), previous historical population estimates were based on extrapolations of data that are not considered to be reliable. Experts consider the figure of between 50,000 and 100,000 individuals may have been accurate until the mid-1980s (BLI 2008, p. 1). Although the figure of 150,000 (e.g., Fjeldså and Krabbe 1990, p. 86) was still being reported in the 1990s, an estimate of 50,000 is considered a more accurate figure (Arengo in litt. 2007, p. 2; BLI 2008 p. 1; del Hoyo *et al.* 1992, p. 526), and experts believe that the species underwent a severe reduction from the mid-1980s to the late 1990s (BLI 2008, pp. 1, 5).

The first simultaneous census of Andean flamingos was conducted in 1997 (Valqui *et al.* 2000, p. 110). Using a comprehensive sampling design and conducting simultaneous surveys at over 200 wetlands in Peru, Bolivia, Chile, and Argentina, researchers counted: 33,918 Andean flamingos in January 1997; 27,913 in January 1998; 14,722 in June 1998; and, 24,442 in July 2000 (Caziani *et al.* 2007, p. 279). In the summer of 2005, a total of 31,617 Andean flamingos were counted (Caziani *et al.* 2006, p. 13). Recent censuses estimate the global population at around 34,000 individuals (Caziani *et al.* 2006, pp. 276–287; Caziani *et al.* 2007, pp. 13–17).

According to Arengo (in litt. 2007, p. 2), long-term population trends have been difficult to establish, given the unreliability of previous population estimates. However, given that the global population sizes of all other flamingo species are estimated above 100,000 individuals, experts consider the Andean flamingo to be the rarest of the 6 flamingo species (Arengo in litt. 2007, p. 2).

Nesting sites: In the last decade, small groups of Andean flamingos have been reported intermittently nesting at a greater variety of sites, including: Laguna Brava and Lagunas de Vilama (Argentina) (Bucher *et al.* 2000, p. 119; Caziani *et al.* 2006, p. 13; Derlindati 2008, pp. 6–7); Laguna Colorada and Laguna Kalina (Bolivia) (Caziani *et al.* 2007, p. 279; Childress *et al.* 2005, p. 6; Childress *et al.* 2006, p. 5; Childress *et al.* 2007a, p. 7; Rodriguez Ramirez 2006, as cited in Arengo in litt. 2007, p. 2); and Salar de Punta Negra and Salar de Huasco (Chile) (Bucher *et al.* 2000, p. 119; Caziani *et al.* 2007, p. 279; Valqui *et al.* 2000, p. 112). In recent years, Andean flamingos have been recorded from 25 wetlands survey units, but there were fewer than 100 individuals at many of these sites (Caziani *et al.* 2007, p. 281). Only 12 wetlands contained more than 100 Andean flamingos at any one of the 4 sampling periods from 1997 to 2000, and breeding has been consistently reported at only 2 of these sites (Arengo in litt. 2007, pp. 2–3; Bucher *et al.* 2000, p. 119; Caziani *et al.* 2007, pp. 279–281; Valqui *et al.* 2000, p. 112).

Breeding success: Productivity estimates from intensive studies of breeding sites in Chile indicate marked fluctuations over the past 20 years, with periods of very low breeding success (Arengo in litt. 2007, p. 2). In 1987, a high of around 15,000 chicks fledged, followed by 10 years of relatively low productivity (fewer than 800 chicks fledged per year on average), and a recent increase to an average of 3,000 chicks fledged since 2000 (Rodriguez Ramirez 2006, Amado *et al.* 2007, both as cited in Arengo in litt. 2007, pp. 1–3). Between 1997 and 2001, successful breeding (based on the observation of 2–3-month-old chicks) was documented only at three wetlands and, in those wetlands, a total of only 12,801 chicks were produced—Salar de Surire (Chile; 9,200 chicks), Salar de Atacama (Chile; 3,378 chicks), and Aparejos (Argentina; 223 chicks) (Caziani *et al.* 2007, p. 283).

The most recent simultaneous census data indicate that a total of 2,338 chicks survived at breeding colonies located in Argentina, Bolivia, and Chile during the 2006–2007 breeding season (December to February) (Childress *et al.* 2007a, p. 7). In Argentina, eight sites were surveyed, six of which are known Andean flamingo breeding sites. Of these, breeding was attempted at one site, but was unsuccessful. No breeding was reported in Peru during the 2006–2007 breeding season. Of 4 sites surveyed in Bolivia, 3 of which are known Andean flamingo nesting grounds, breeding occurred at 2 sites (Laguna Colorada and Kalina) producing total of 1,800 chicks. In Chile, breeding was attempted at four sites in Salar de Atacama. A total of 2,900 pairs of Andean flamingos laid eggs but only 538 chicks survived.

Conservation Status

The Andean flamingo is the rarest of six flamingo species worldwide (family Phoenicopteridae). The IUCN considers the Andean flamingo to be "Vulnerable," because (1) it has undergone a rapid population decline, (2) it is exposed to ongoing exploitation and declines in habitat quality, (3) and, although exploitation may decrease, the longevity and slow breeding of flamingos suggest that the legacy of past threats may persist through generations to come (BLI 2008, p. 1). Long-lived species with slow rates of reproduction and ongoing poor breeding success, such as that being experienced by the Andean flamingo, can quickly decline towards extinction when reproduction does not keep pace with mortality (BLI 2008, p. 2; Bucher 1992, p. 183; del Hoyo *et al.* 1992, p. 517) (see Population Estimates, above).

Summary of Factors Affecting the Andean Flamingo

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

Andean flamingos occupy shallow, saline wetlands in the lowland, puna, and altoandino regions of the Andes (see Table 1) (BLI 2008, pp. 1, 6; Bucher 1992, p. 192; Bucher *et al.* 2000, p. 119; Caziani *et al.* 2007; del Hoyo 1992, pp. 514; Fjeldså and Krabbe 1990, p. 85). Andean flamingos are altitudinal migrants and alternate between

wetlands based largely on environmental conditions and especially the availability of water (Bucher 1992, p. 182; Bucher *et al.* 2000, p. 119; del Hoyo 1992, pp. 514; Fjeldså and Krabbe 1990, p. 85; Goldfeder and Blanco 2007, p. 190; Hurlbert and Keith 1979, pp. 334, 336; Rocha and Rodriguez 2006, p. 12). During the summer breeding season (December to January), Andean flamingos occupy high-elevation wetlands in Chile, Argentina, and Bolivia, and less frequently, Peru. During the winter, they may stay at the high-elevation wetlands, or move to lower elevations in Argentina, Bolivia, and Peru (Blake 1977, p. 207; BLI 2008, pp. 1 and 6; Boyle *et al.* 2004, pp. 563–564, 570–571; Bucher 1992, p. 182; Bucher *et al.* 2000, p. 119; Caziani *et al.* 2006. p. 17; Caziani *et al.* 2007, pp. 277, 279, 281; del Hoyo 1992, p. 514, 519; Fjeldså and Krabbe 1990, p. 85; Hurlbert and Keith 1979, pp. 330; Kahl 1975, pp. 99–101; Mascitti and Bonaventura 2002, p. 360; Mascitti and Castañera 2006, p. 328).

The wetlands occupied by Andean flamingos are utilized on a landscape level (Derlindati 2008, p. 10). Andean flamingos prefer water that is less than 3 ft (1m) deep (Fjeldså and Krabbe 1990, p. 86; Mascitti and Casteñera 2006, p. 331) and rely on the variety of habitat options at wetland complexes throughout the species' range to select optimal nesting and feeding sites. Beginning in 2002, researchers conducted a multi-year Andean flamingo dispersal study, to determine overwintering sites and spatial and temporal movements (Caziani *et al.* 2003, p. 11; Johnson and Arengo 2004, pp. 9, 15). Andean flamingos in Argentina were tracked using satellite transmitters, and results were highly variable. One bird stayed at the origination site (the actual location of which was undisclosed), and another bird traveled 715 mi (1,150 km) over a 4-day period, using more than four sites in the process (Caziani *et al.* 2003, p. 11). The habitats visited included salar lakes, rivers and flooded areas. Flamingos were more mobile during summer to autumn (January–May), moving between sites often, and less mobile in winter. The birds in this study overwintered at Laguna de Mar Chiquita (Argentina), Lago Poopó (Bolivia), and Salar de Atacama (Chile) (Caziani *et al.* 2003, p. 11).

Between 1997 and 2001, 98 percent of Andean flamingo chicks were produced in two Chilean wetlands—Surire (9,200 chicks) and Atacama (3,378 chicks) (Caziani *et al.* 2007, p. 283). In the 2006–2007 breeding season, 75 percent of the surviving chicks were produced at Laguna Kalina and Laguna Colorada (1,800 chicks) (Bolivia), and the other 25 percent at Salar de Atacama (538 chicks) (Chile). Sites where breeding does not occur serve as important staging areas for pre-reproduction mating displays and as feeding locations for non-breeding flamingos and even breeding flamingos at nearby sites (Derlindati 2008, p. 10). Andean flamingos travel to different wetlands to feed, even while nesting (Bucher 1992, p. 182; Caziani *et al.* 2007, p. 277; Conway 2000, p. 212; del Hoyo 1992, pp. 509–519).

The Andean region where the Andean flamingo occurs is characterized by an extensive series of endoreic (closed) water systems that drain internally, that are recharged primarily by summer rains, that contract seasonally, and that may occasionally dry out completely (see Factor E) (Bucher 1992, p. 182; Caziani and Derlindati 2000, pp. 124–125; Caziani *et al.* 2001, p. 110; Mascitti and Caziani 1997, p. 328).

Mineral extraction, water contamination, water extraction, and water diversion from mining, agriculture, grazing, urban development, and increasing tourism are ongoing activities that negatively impact wetland habitats that support Andean flamingos throughout the species' range (Arengo in litt. 2007, p. 2; Childress *et al.* 2007a, p. 5; Goldfeder and Blanco 2007, p. 193).

Mineral extraction: There are ongoing mining operations to extract salt, borax, ulexite, sulphur, sodium carbonate, lithium, and several other minerals at many of the wetlands occupied by the Andean flamingo. Mineral extraction and prospecting are ongoing at these wetlands, including: Salars de Atacama and Surire (Chile) (Corporación Nacional Forestal 1996a, p. 9; Rundel and Palma 2000, pp. 270–271)—the two breeding sites that accounted for 98 percent of the chick production during the period 1997–2001 (Caziani *et al.* 2007, p. 283)—and Lago Uru Uru (Bolivia) (Soto 1996, p. 7; Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 135)—the site that had the largest number of Andean flamingos ever recorded in one wetland (Kahl 1975, p. 100). Prospecting and digging for minerals and underground water—involving road building, which makes it possible for people to reach places that were formerly inaccessible—are ongoing at Salar Punta Negra (Corporación Nacional Forestal 1996c, pp. 10–11).

Argentinean wetlands—including Laguna Brava, Purulla, Grande, Baya, Diamante (these last three part of the Galan Complex), Laguna Pozuelos, and Lagunas de Vilama, where Andean flamingos breed and live year-round—are also under pressure to allow mining in these areas (BLI 2008, p. 553; Caziani *et al.* 2001, p. 106; de la Fuente 2002, p. 8; Ducks Unlimited 2007a, p. 4; Goldfeder and Blanco 2007, p. 193).

In Bolivia, there are proposals to exploit lithium, potassium, and borium from Salar de Coipasa (Ducks Unlimited 2007b, p. 11) and Pastos Grandes (New World Resource Corp 2008, p. 1)—both known breeding and overwintering sites for the Andean flamingo. Bolivia contains an estimated 50 percent of the world's supply of the lithium that is used to make batteries for portable electronic equipment. The largest known lithium deposit in the world is located in the Bolivian altiplano—the Pastos Grandes concession (New World Resource Corp 2008, p. 2). Lithium can be extracted directly from the saline water in the alitplano salars; this water is referred to by the mining industry as "brine." The brine is pumped through a series of evaporation ponds to concentrate the lithium (New World Resource Corp 2008, p. 4). Obtaining lithium from brine is considered more cost-effective in the mining industry than the other alternative, extracting lithium from hard rock (New World Resource Corp 2008, p. 4). Nearly all the world's supply of brine-derived lithium comes from the Chilean and Argentinean altiplanos (New World Resource Corp 2008, p. 4). In Peru, Laguna Loriscota and Laguna Vizcachas are being prospected to extract or divert water to feed mining operations. These areas are currently being reviewed as Important Bird Areas (Arengo 2009, p. 34).

Intensive exploitation of natural resources has degraded the soil and ecology of the region, resulting in extensive erosion, river sedimentation, soil salinization, silting up of lakes, and water imbalances in watersheds that contribute to extreme fluctuations in water flows (Jellison *et al.* 2004, p. 14). In the past, Andean flamingos have abandoned breeding sites undergoing alteration from mining. Laguna Ascotán was once considered a breeding site for the species (Johnson *et al.* 1958, p. 296; Kahl 1975 p. 100). The birds abandoned the site in the mid-20th century, which Johnson (1958, p. 296) attributed to the resumption of borax extraction. Today, Andean flamingos continue to feed at the site (Vilina and Martínez 1998, p. 28), but there are no reports of nesting.

Water Contamination: Water resources at many salars have been contaminated, largely as the result of chemical pollution produced by the mining and metallurgical industries. The waters of the Titicaca-Desaguadero-Poopó-Salar de Coipasa (TDPS) hydrological system have been polluted

by mining and metal foundry activities (Jellison *et al.* 2004, p. 11; Ricalde 2003, p. 91). This water system includes the important Bolivian overwintering sites, Lagos Poopó and Uru Uru—where more than 50 percent of the known population of Andean flamingos overwintered in 2000 (Caziani *et al.* 2007, p. 279). The area has been mined for silver, lead, zinc, copper limestone, antimony, iron, gold, tin, and uranium (Rocha 2002, p. 10). Lago Poopó, Lago Uru Uru, and the lower Río Desaguadero have concentrations of heavy metals above the limits permitted for human consumption (Apaza *et al.* 1996, Organization of American States/United Nations Environment Programme (OAS/UNEP) and the Bi-national Authority of Lago Titicaca (Autoridad Nacional del Lago Titicaca (ALT)) 1999; Van Ryckeghem 1997—as cited in Rocha 2002, p. 10). Because Lago Poopó is located at the terminal end of the endoreic (closed) TDPS drainage system, pollutants are more likely to concentrate there (Jellison *et al.* 2004, p. 120; Ronteltap *et al.* 2005, p. 3) and the lake has been contaminated by mining activities for many years (Adamek *et al.* 1998). Mine pollution has led to lake water lead concentrations that are 300 times higher in Lago Poopó than the average concentrations detected in other lakes in the world, and fish in the lake test positive for heavy metal residues (Cardoza *et al.* 2004, as cited in Jellison *et al.* 2004, p. 120). Water contamination in Lago Poopó was further exacerbated in the year 2000, when 39,000 barrels of crude oil spilled in the lake. The native community Uru Morato, which has lived along the lake for 5,000 years, reported that the flamingoes did not lay eggs there that year "for the first time in thousands of years" (Jellison *et al.* 2004, p. 13).

Tourism and increasing human population to support the mining industry has destroyed habitat and further contaminated water supplies. Ecotourism is prevalent at many wetlands inhabited by the Andean flamingo in Argentina, most of which are exceptional sites for viewing biodiversity and wildlife, including Laguna de Mar Chiquita (Ducks Unlimited 2007a, p. 22); Laguna Brava, where tourism includes the use of off-road vehicles (BLI 2008, p. 40); and Lagunas de Vilama (Caziani *et al.* 2001, p. 106). Increasing amounts of pollution from surrounding towns that support ecotourism and the mining industry wash into wetlands during the rainy season and are carried into the lake by wind. Ugarte-Nunez and Mosaurieta-Echegaray 2000 (p. 139) noted an absence of flamingos in areas where refuse enters the Laguna Salinas (Peru). Inadequate sewage systems at growing urban centers pollute the salars (Jellison *et al.* 2004, p. 11). Pollution of the water in the TDPS system is problematic where towns are concentrated on the shores of the lakes (Ronteltap *et al.* 2005, p. 5). As of 2004, the TDPS water system, of which Lagos Poopó and Uru Uru are a part, supported a population of nearly 3 million people (Jellison *et al.* 2004, p. 14). At Lake Titicaca, wastewater is causing eutrophication—whereby excessive nutrients stimulate excessive plant growth, reducing the dissolved oxygen in the water as the plants decompose, causing other organisms to die—over approximately 3,954 acres (ac) (1,600 hectares (ha)) in the Puno Bay, and in another portion of the lake, leakage from former oil wells continues to degrade wildlife habitat (INRENA 1996, p. 9). The southern islands of Lake Titicaca are also being polluted by medium sized rivers loaded with wastewater from the cities of La Paz and El Alto (with more than 100,000 inhabitants), one of the fastest growing cities of South America, affecting some of the richest areas in the lake for fishing and birdlife (Arengo 2009, p.37). Sewage from the city of Oruro and the neighboring towns of Challapata, Huari, and Poopó empties into Lagos Poopó and Uru Uru, causing organic and bacteriological pollution (Ducks Unlimited 2007b, p. 7; Liberman *et al.* 1991, OAS/UNEP and ALT 1999—as cited in Rocha 2002, p. 10).

In addition, illegal dumping of agrochemicals has severely impacted wetlands and the species that depend on them. In 2000, at Mar Chiquita (Argentina), Bucher reported that 30 tons of Lindane, an insecticide, was illegally dumped at the northern end of the lake, jeopardizing the entire closed lake system (Johnson and Arengo 2001, p. 38). Industrial pollutants and pesticides have caused large-scale die-off of flamingos. Childress *et al.* (2007b, p. 30) reported that tens of thousands of lesser flamingos *(Phoenicopterus minor*) were killed in July 2004 by industrial heavy metals and pesticides at feeding lakes in Kenya and Tanzania. A massive bird die-off of unspecified species of birds at Miramar in February 2004 (located in Córdoba, where Laguna de Mar Chiquita is located) may have been caused by the dumping of excess agrochemicals into the water, which penetrated the soil (BLI 2008, pp. 36–37).

Given that pollutants and pesticides have been known to cause die-offs of other species of flamingos and other bird species, it is likely that such contamination could have lethal effects on Andean flamingos. For instance, although in 1997 Laguna de Pozuelos was among 5 wetlands that harbored 50 percent of the breeding population of Andean flamingos, the number of Andean flamingos on Laguna de Pozuelos has diminished greatly since 1993 (Caziani and Derlindati 2000, p. 122). Pollution from mining wastes and erosion due to overgrazing, combined with desiccation of the lake (see Factor E), is negatively affecting the wetland at Laguna de Pozuelos (Argentina), where Andean flamingos breed and reside year-round (Laredo 1990, as cited in Adminstration de Parques Nacionales 1994, p. 2). In the 2006–2007 breeding season, no breeding was detected at this lake (Childress *et al.* 2007a, p. 7).

Water Extraction and Diversion: Water is extracted from wetlands for use by the mining industry, to facilitate lakebed resource exploitation, and to meet increasing human demand. Mining companies hold water concessions at Laguna Negra (Chile) (Corporación Nacional Forestal 1996c, pp. 10–11). Water extraction is an intrinsic part of lithium mining in Argentina, Bolivia, and Chile (New World Resource Corp 2008, p. 4) (see Mineral Extraction). Underground water has been pumped from Salar de Punta Negra (Chile) for use in a large copper mining operation (Line 2004, p. 4). In the past decade, Andean flamingos have bred intermittently at Salar de Punta Negra (Caziani *et al.* 2006, p. 13; Caziani *et al.* 2007, p. 279, 283; Johnson *et al.* 1958, p. 296; Kahl 1975, p. 100). The shallow wetlands preferred by Andean flamingos are subject to high rates of evapotranspiration (Caziani and Derlindati 2000, p. 122), and water extraction hastens desiccation of these wetlands. In these arid closed-basin systems, groundwater extraction is unsustainable (Messerli *et al.* 1997, p. 233; Research and Resources for Sustainable Development (Recursos e Investigación para el Desarrollo Sustentable (RIDES)) 2005, p. 14). Wetland hydrology has also been affected by road construction. For example, in Reserva Laguna Brava in Argentina, an international road that crosses the reserve is being paved. This project not only affects the wetland directly because of its proximity to wetlands and flamingo nesting sites, but construction activities have diverted water flows from streams, cutting off their flow into the wetland (Arengo 2009, p. 38–39).

Wetlands have been drained to facilitate excavation on the lakebed surface (Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 135). Excavation can

drastically alter the water levels of these shallow lakes, creating areas that are unsuitable for foraging and nesting and allowing human access to areas that were once inaccessible (Corporación Nacional Forestal 1996c, p. 11). Furthermore, there have been reports of flamingos dying when they became stuck in the mud brought up from the bottom of the lake by mining operations (Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 137). Laguna Vizcachas (Moquegua) is a critical site for Andean Flamingos in Peru that is seriously threatened by water translocation for mining (Arengo 2009, p. 39).

Urbanization and tourism have intensified groundwater use (Jellison *et al.* 2004, p. 11), as hotels and restaurants have been established in the villages and towns surrounding the salars and lagunas (RIDES 2005, p. 21). An influx of tourists at Laguna Colorada (Bolivia) has resulted in noticeably increased water consumption (Rocha and Eyzaguirre 1998, p. 8). At Salar de Atacama, the maximum volume available for extraction from the basin is estimated by the average annual recharge rate of 177 cubic feet per second (ft^3/s) (5 cubic meters per second (m^3/s)), yet the rights to 219 ft^3/s (6.2 m^3/s) of water have been allocated (RIDES 2005, pp. 15–16). The number of people visiting remote Salar de Surire (Chile), a primary Andean flamingo breeding site, was under 1,000 as of 1995, and is increasing (Soto and Silvestre 1996, p. 7). Recent estimates indicate that over 50,000 people visit Salar de Atacama (Chile) and surrounding areas each year. Based on the recharge estimates, continued increases in water use levels commensurate with increasing tourism would not be sustainable (RIDES 2005, p. 21).

The gradual loss of water from the basin reduces the surface area of the lake and the total amount of habitat available to the Andean flamingo. Ugarte-Nunez and Mosaurieta-Echegaray (2000, p. 135) found that the number of flamingos at Laguna Salinas (Peru) was strongly correlated to the proportion of the lake covered with water (1997: $r^2 = 0.73$; 1998: $r^2 = 0.72$), indicating that loss of surface area influences flamingo abundance. Lago Parinacochas (Peru), long known as an important overwintering site for Andean flamingos, is being drained as part of a water development project in Peru (Ducks Unlimited 2007d, p. 31). The TDPS in Bolivia and Peru, which Lagos Poopó and Uru Uru belong to, provides drinking water and cleaning water, transportation, industry and irrigation—in addition to providing habitat for flora and fauna (Ronteltap *et al.* 2005, p. 5).

The extraction of water for human consumption has exacerbated drought conditions throughout Andean flamingo habitat since the early 1990s (see Factor E) (Caziani and Derlindati 2000, pp. 124–125; Caziani *et al.* 2001, p. 110; Mascitti and Caziani 1997, p. 328). In Chile, where Andean flamingo breeding colonies are found and where mineral and hydrocarbon exploration and exploitation have increased in the last two decades, both the number of successful breeding colonies and the total production of chicks of Andean flamingos have declined since the 1980s (Parada 1992, Rodríguez and Contreras 1998—as cited in Caziani *et al.* 2007, p. 284). Of 2,900 pairs of Andean flamingos that attempted to breed in Chilean wetlands in the 2006–2007 season, only 538 chicks were produced (Childress *et al.* 2007a, p. 7).

Water from salars has been diverted to support agriculture. Río Lauca, which feeds Salar de Coipasa (Bolivia), has been diverted near its source in Chile for irrigation purposes (Ducks Unlimited 2007c, pp. 9–11). This has resulted in a considerable reduction in the flow of water into Salar de Coipasa and is contributing to the desiccation of the Salar (Ducks Unlimited 2007b, p. 11).

Río Desaguadero is a 230-mi-long (370 km) river that once flowed from Lago Titicaca to Lago Poopó but recently changed direction and now flows into Lago Uru Uru (Ducks Unlimited 2007b, p. 5). This is attributed to water level reductions caused by an ongoing drought since the early 1990s (see Factor E) and by diversion for irrigation (Jellison *et al.* 2004, p. 14). In 2004, Río Mauri, a major tributary of the Río Desaguadero, was diverted to Peru (Armando *et al.* 2004, as cited in Jellison *et al.* 2004, p. 14). These water shortages exacerbate the contamination and extraction problems for Lagos Poopó and Uru Uru, mentioned above.

Research has shown that drastic water level changes can significantly alter the seasonal altitudinal movements of the Andean flamingo (Mascitti and Caziani 1997, pp. 324–326). In January 1996, Caziani & Derlindati (2000, p. 124) reported that a colony of unidentified flamingo nests at Lagunas Vilama, where Andean and James' flamingo are known to breed, were found on dry land—probably due to an unexpected retraction of the lake—leaving 1,500 abandoned nests, some of which had eggs from that season.

Increased urbanization and mining have increased infrastructure development. At Lagunas Brava and Mulas Muertas (breeding and overwintering sites, respectively), in Argentina, an international road to connect Argentina with Chile has been under construction. This road passes near the shores of Lagunas Brava and Mulas Muertas and through the bofedales that feed the two lakes, decreasing the available area suitable for Andean flamingo nesting and foraging and disrupting hydrological recharge system by altering the wet meadows that feed the two lakes (de la Fuente 2002, p. 8). At Laguna Salinas (Peru), which provides habitat for all three Andean flamingo species (Ducks Unlimited 2007d, p. 26), a mining road bisects the lake and construction excavations have reduced flamingo habitat availability (Ugarte-Nunez and Mosaurieta-Echegaray 2000, pp. 137–138). Increased road construction to support mining and tourism also facilitates predator access to nesting grounds (Corporación Nacional Forestal 1996a, pp. 12) (Factor C).

Agriculture and Grazing: Lowland wetlands that serve as important overwintering sites for the Andean flamingo are subject to agricultural pressures (Derlindati 2008, pp. 1, 7). Laguna Melincué (Argentina), for instance, lies in the heart of Argentina's agricultural zone (Romano *et al.* 2006a, p. 17; Romano *et al.* 2006b, pp. 16–20). The forested lands are being cleared, and pastures have been and continue to be planted with cash crops in the areas surrounding Mar Chiquita (Argentina) (BLI 2008, p. 36). Damming of wetlands for agriculture has modified important flamingo areas in southern Peru, such as Lagunillas (Puno) and Laguna Suches (Tacna) (D. Ricalde, in litt., as cited in Arengo 2009, p. 80).

Cattle grazing occurs adjacent to Andean flamingo habitat in Argentina, where the species breeds and overwinters, including Laguna Brava (de la Fuente 2002, p. 8) and Laguna Pozuelos (Adminstration de Parques Nacionales 1994, p. 1). At Laguna Brava, ranching activities are considered small scale (comprising 300 heads of cattle), in part because the area surrounding the lake is uninhabited (de la Fuente 2002, p. 8). At Laguna Pozuelos, grazing has resulted in severe soil erosion, especially along the shore, and increased siltation of the lake (Adminstración de Parques Nacionales 1994, p. 1; Ducks Unlimited 2007a, p. 4). In Bolivia, livestock management (llamas and alpacas) continues to be a problem in the bofedales surrounding Laguna Colorada (Ducks Unlimited 2007b, p. 14; Flores 2004, pp. 25–26).

These activities have contributed to the alteration and degradation of vital

Andean flamingo habitat. Long-lived species with slow rates of reproduction, such as the Andean flamingo, can appear to have robust populations, but can quickly decline towards extinction if reproduction does not keep pace with mortality (BLI 2008, p. 2; Bucher 1992, p. 183; del Hoyo *et al.* 1992, p. 517). Andean flamingos have temporally sporadic and spatially concentrated breeding patterns, and their breeding success and recruitment are low (Caziani *et al.* 2007; Childress *et al.* 2005, p. 7; Childress *et al.* 2006, p. 7; Childress *et al.* 2007a, p. 7). Successful reproduction is spatially concentrated in just a few wetlands (Childress *et al.* 2005, p. 7; Childress *et al.* 2006, p. 7; Childress *et al.* 2007a, p. 7; Valqui *et al.* 2000, p. 112). In the case of Andean flamingos, Conway (W. Conway, as cited in Valqui *et al.* 2000, p. 112) suggests that a stable population can be maintained if the species' breeding success is good every 5–10 years. Recent productivity estimates indicate that the species has experienced very low breeding success over prolonged periods (Arengo in litt. 2007, p. 2; Amado *et al.* 2007, Rodriguez Ramirez 2006—as cited in Arengo in litt. 2007, pp. 1–3). An examination of the species' nesting sites and breeding success (see Population Estimates, above) indicates that, despite an increased number of nesting sites, the species' breeding success remains low (Arengo in litt. 2007, p. 2; Caziani *et al.* 2007; Childress *et al.* 2005, p. 7; Childress *et al.* 2006, p. 7; Childress *et al.* 2007a, p. 7). Valqui *et al.* 2000 (pp. 111–112) postulated that reproduction in the Andean flamingo, a species which prefers to nest at high densities and once nested in huge colonies at Salar de Atacama (Fjeldså and Krabbe 1990, p. 86; Johnson *et al.* 1958, p. 296; Kahl 1975, p. 100), is being inhibited by the more dispersed nature of the population and occupation of smaller lakes.

Summary of Factor A

Salar habitat throughout the Andean flamingo's range has been and continues to be altered as a result of natural resource exploitation. Andean flamingos require a variety of available habitats over large areas in order to find optimal foraging and nesting sites, given unpredictable seasonal fluctuations. Mining has resulted in direct loss of habitat due to excavations of lakebeds, has increased water extraction, and has caused water pollution. Wetlands throughout Andean flamingo habitat have been drastically altered by water extraction for mining, agriculture, and human consumption. Flamingos are sensitive to fluctuating water levels, and intentional diversion of water from these endoreic (closed) wetlands exacerbates natural seasonal fluctuations and reduces habitat options. Wetlands are contaminated from mining spoils, sewage, and agriculture pollution. Wetland complexes occupied by Andean flamingos that are hydrologically connected become affected by pollutants and by diminished water levels on a landscape level. Resource extraction and water contamination have had and continue to have significant impacts on the water quality and the availability of wetlands that are critical to the lifecycle of the Andean flamingo. Andean flamingo breeding patterns are temporally sporadic, successful reproduction is spatially concentrated, and their breeding success and recruitment are low. Continued and pervasive habitat destruction throughout the species' range in recent decades coincides with the species' drastic population reduction, as noted by experts (See Population Estimates, above). The negative impacts of habitat destruction on Andean flamingos on the reduction of the species' range and population numbers are intensified by an ongoing drought (Factor E). Lowered water levels could lead to disease outbreaks and can increase the flamingo's susceptibility to predation (Factor C). Therefore, we find that destruction and modification of habitat are threats to the continued existence of the Andean flamingo throughout its range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Hunting for local consumption: Andean flamingos are hunted throughout most of their range for use as food or medicine and in rituals. Johnson (1967, p. 405) described flamingo hunting activities by the Montaro Indians at Lago Poopó (Bolivia) and by the Chipayas at Laguna Coipasa (Bolivia), who hunted the species for food and for its feathers, which were sold as dance ornaments. In the late summer, the Chipayas also rounded up groups of young flamingos and slaughtered them for their fat, which was boiled down and sold as a remedy for tuberculosis (Johnson 1967, p. 405).

Flamingo hunting continues today throughout much of the species' range (Valqui *et al.* 2000, p. 112). Quantities of wild birds, including flamingos, are still sold in the markets in Argentina, Bolivia, and Chile (Barbarán 2004, p. 6; Sáenz 2006, p. 103). In 2006, birds sold for between 25–50 Bolivianos (Bs) ($3–6 U.S. Dollars (US$)) (Sáenz 2006, p. 89).

On the Argentinean (Departments of Salta and Jujuy)/Bolivian border (Potosí)—where several Andean flamingo wetlands are found, including Laguna Pozuelos (Argentina), Laguna Colorada, and Salar de Chalviri (both in Bolivia) —locals use flamingo feathers as medicinal incense and for costumes; they eat flamingo meat and use the fat for medicine (Barbarán 2004, p. 11). Hunting is also ongoing at Lagunas de Vilama (Argentina), where the species overwinters (BLI 2008, p. 553).

At Salar de Atacama (an Andean flamingo breeding site in Chile), flamingos are hunted for their feathers (Corporación Nacional Forestal 1996a, pp. 8–9). Flamingos are used in local rituals associated with rain, birth, death, and illnesses by indigenous cultures that have long inhabited the Salar de Atacama region (Castro and Varela 1992, p. 22).

At Laguna Salinas (an overwintering site in Peru), hunters have killed flamingos for target practice or just "to get a close look at one" (Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 137). Increased road construction to support mining and tourism (Factor A) also facilitates hunting access to nesting grounds (Corporación Nacional Forestal 1996a, p. 12). At Lago Titicaca (Peru), localized hunting may occur on the islands (Ducks Unlimited 2007d, p. 27). Excessive hunting of ducks and coots is also a problem at Lago Parinacochas (an overwintering site in Peru) (Ducks Unlimited 2007d, p. 23), where occasionally flamingos are also hunted (Arengo 2009, p.46). Hunting pressure on flamingos has been described as "intense" at Negro Francisco (Chile) and poaching is a problem at Mar Chiquita (Argentina); both are Andean flamingo breeding grounds (Bucher 1992, p. 183; Corporación Nacional Forestal 1996c, p. 11; Goldfeder and Blanco 2007, p. 193).

Indiscriminant hunting of Andean flamingos continues at Lago Poopó (an Andean flamingo overwintering site in Bolivia) (Rocha 2002, p. 10). Around Lagos Poopó and Uru Uru, flamingos are still trapped using traditional techniques—a slip-knot rope strung across the shores of the lake (Sáenz 2006, pp. 88–89). Locals, such as the Urus, who live near Lagos Poopó and Uru Uru, prefer Andean flamingos above all other waterfowl, presumably for their fat content (Sáenz 2006, p. 185). Flamingo blood might be used medicinally and feathers for adornment (Sáenz 2006, pp. 88–89). Locals at Lagos Poopó and Uru Uru hunt flamingos to sell to miners, who make oil from the bird to cure tuberculosis (Morrison

1975, p. 81). One trapper noted that "long ago" it was possible to trap up to 15 flamingos per day at Lago Poopó, but that this was no longer the case (Sáenz 2006, p. 89).

Direct removal through hunting of Andean flamingo juveniles and adults has immediate and direct consequences on the already small size of the Andean flamingo population. The Andean flamingo experienced a severe population reduction since the 1980s (BLI 2008, pp. 1, 5), with the number of birds decreasing from 50,000 to 100,000 individuals (BLI 2008, p. 1) to the current estimate of 34,000 (Caziani *et al.* 2006, pp. 276–287; Caziani *et al.* 2007, pp. 13–17). Hunting further reduces the number of individuals. All flamingos are believed to be monogamous, with a strong pair-bonding tendency that may be maintained from one breeding season to the next (del Hoyo 1992, p. 514). Hunting can destroy pair bonds and disrupt mating from one season to the next. Because not all sexually mature adults breed every year and, even in years of breeding, not all sexually mature adults will participate (Bucher 1992, p. 183), removal of those adults that are nesting greatly reduced their already poor breeding success (Fjeldså and Krabbe 1990, p. 85). Andean flamingos are long-lived, with slow rates of reproduction and poor breeding success (BLI 2008, p. 2; Bucher 1992, p. 183; del Hoyo *et al.* 1992, p. 517). Stable populations can be maintained only if the species' breeding success is good every 5–10 years (William Conway, Wildlife Conservation Society, Bronx, New York, as cited in Valqui *et al.* 2000, p. 112). Removal of juveniles from the population contributes to the already low rate of chick production (as further discussed under Egg Collection, below). Experts believe that ongoing exploitation, coupled with habitat decline, and the species' rapid population decline and slow breeding render this species vulnerable to extinction in the wild (BLI 2008, p. 1). Finally, given the species' sensitivity to human disturbance (see Factor E), Andean flamingos are negatively affected by disturbance from hunting-related activities, even when they are not directly targeted (CONAF, Region II, as cited in Instituto Nacional de Recursos Naturales (INRENA) 1996, p. 11; de la Fuente 2002, p. 8; Valqui *et al.* 2000, p. 112).

Hunting for international trade: In 1975, the Andean flamingo was listed in Appendix II of CITES (UNEP–WCMC 2008b, p. 1). Appendix II includes species that are not necessarily threatened with extinction, but may become so unless trade is subject to strict regulation to avoid utilization incompatible with the species' survival. International trade in specimens of Appendix-II species is authorized through permits or certificates under certain circumstances, including verification that trade will not be detrimental to the survival of the species in the wild and that specimens in trade were legally acquired (UNEP–WCMC 2008a, p. 1). For information on how CITES functions to regulate trade, see Factor D.

Bucher (1992, p. 183) described a smuggling operation that involved trade in live Andean flamingos with birds captured at Laguna de Mar Chiquita (a breeding site in Argentina) and transported out of the country as captive-bred specimens (specimens that were not taken out of the wild) with forged CITES documents. Based on CITES documentation, trade records indicate that a total of 77 Andean flamingo specimens have been traded internationally since the species was listed in 1975 (United Nations Environment Programme-World Conservation Monitoring Centre (UNEP–WCMC) 2008c, pp. 1–2). Thirty-six specimens were traded as nonliving specimens—all were exchanged for scientific purposes and involved trade with Chile and Argentina—3 specimens from Chile (in 1985) and 25 specimens from Argentina (in 2004); 1 shipment of 250 grams of specimens from Chile (possibly blood samples, in 1997); 1 body (probably a museum specimen, in 1989); and 2 feathers (which appear to be the same specimen—imported to the U.S. from Chile in 2000 and returned to Chile in 2001) (UNEP–WCMC 2008c, pp. 1–2).

Forty-one of the 77 specimens were live shipments. Eighteen of the specimens originated from one Andean flamingo range country (Bolivia) and were exported in three shipments—in 1977, 1978, and 1981. Sixteen of the birds were traded for scientific purposes; trade for scientific purposes generally indicates a transaction involving a zoo, where primary research on captive breeding is undertaken. There is no indication as to the origin of the remaining 23 live specimens (i.e., the country from which the specimens originated), therefore, we are unable to determine unequivocally whether live specimens were exported from Argentina consistent with the requirements of CITES. Of these 23, only 3 specimens were traded for commercial purposes: In 1979, when France exported a single live individual to Great Britain; in 1980, when the United States exported 4 live individuals to Great Britain; and, in 1982, when Great Britain exported 27 birds to Germany. There has been no trade in live specimens since 1982 (UNEP–WCMC 2008c, pp. 1–2).

Since 1997, the Andean flamingo has been protected throughout Europe by the European Commission (EC) Regulation 338/97 (Eur-Lex 2008, p. 24). For species listed under Annex B, imports from a non-European Union country must be accompanied by a permit that is only issued if the Scientific Authority has determined that trade in the species will not be detrimental to its survival in the wild. According to Dr. Ute Grimm (German Scientific Authority to CITES (Fauna), Bonn, Germany, in litt. 2008, p. 1), there have been no imports of Andean flamingos since this legislation went into effect (Grimm in litt. 2008, p. 1). Thus, we cannot conclude that CITES trade documents were used to smuggle live birds from Argentina, and the trade data do not suggest that this is the case.

Egg collection: There is a long history of collecting flamingo eggs in the altiplano region. Eggs are harvested for subsistence use and for sale in local markets (Barbarán 2004, p. 6; BLI 2008, p. 56; Rocha 2002, p. 10; Sáenz 2006, p. 89). Walcott (1925, pp. 354–357) provided a detailed account of egg collecting at Laguna Colorada (Bolivia), as described by a local Puna Indian. According to this account, the locals knew when the Andean flamingos began nesting for the season and a group of 8 to 10 villagers would camp at the lake long enough to gather the eggs. They gathered nearly every egg, burying the ones that they could not carry, so that the birds would not incubate them, and returning later to retrieve the buried eggs. The eggs were baked in clay ovens on site before being transported back to their village. Another early 20th century account noted that flamingo eggs were sold as far back as 1903 in a market at San Pedro de Atacama (Chile) (Walcott 1925, pp. 354, 360)—this is the nearest town to Salar de Atacama, the type locality of the Andean flamingo (Hellmayr 1932, p. 312). Eggs were harvested once, twice, or several times a season (Johnson *et al.* 1958 pp. 291, 298; Walcott 1925, pp. 354–356). Accounts describe the annual practice of harvesting eggs, with entire families journeying to the lake to set up camp from December to February (Barfield 1961, p. 96; Johnson *et al.* 1958 pp. 291–292). Villagers near Salar de las Parinas in Chile mention removing crates of eggs from the colonies with horse-drawn carts.

Egg collecting has become an established part of the local culture (Barbarán 2004, p. 6; Rocha 2002, p. 10).

Egg collecting has been reported at several wetlands throughout the Andes that are critical to the Andean flamingo's life cycle, including: Laguna de Pozuelos (Argentina) (Administration de Parques Nacionales 1994, p. 2); Lagunas de Vilama (Argentina) (BLI 2008, p. 553; Caziani *et al.* 2001, p. 106); Lago Poopó (Bolivia); Lago Uru Uru (Bolivia) (Sáenz 2006, p. 89); Laguna Colorada (Bolivia) (Hurlbert and Keith 1979, p. 332; Johnson *et al.* 1958, p. 292; Rocha and Eyzaguirre 1998, p. 1); and Salar de Atacama (Chile) (Hurlbert and Keith 1979, pp. 332–333; Johnson *et al.* 1958, p. 298), although some of the eggs collected are from other species of flamingo. Egg collection may also occur at Lago Titicaca (Peru) (Ducks Unlimited 2007d, p. 27). Residents from some wetlands in Peru such as Titicaca, Laguna Salinas, Laguna Loriscota and Laguna Vizcachas have reported nesting attempts by small numbers of flamingos (probably *P.chilensis*) where egg gathering by locals terminated the process.

Collecting is facilitated by the fact that the birds nest in large colonies. Large nesting sites are targeted for egg collection, as collectors can quickly gather a large number of eggs at these sites (Caziani *et al.* 2001, p. 111; Sáenz 2006, p. 89).

Egg collection has an immediate negative impact on the Andean flamingo's already poor breeding success (see Population Estimates—Breeding Success) (Arengo in litt. 2007, pp. 1–3; del Hoyo *et al.* 1992, p. 521). Because flamingos are long-lived with slow rates of reproduction (Bucher 1992, p. 183), stable populations can be maintained if the species' breeding success is good every 5–10 years (William Conway, Wildlife Conservation Society, Bronx, New York, as cited in Valqui *et al.* 2000, p. 112). However, the numbers of nesting birds being reported are lower in the past decade when compared to the 1980s (Parada 1992, Rodríguez and Contreras 1998—as cited in Caziani *et al.* 2007, p. 284). Chick production has been very low for the past 20 years, averaging 800 per year from 1987 to 1997 (Rodriguez Ramirez 2006, Amado *et al.* 2007, as cited in Arengo in litt. 2007, pp. 1–3), and 3,000 chicks per year from between 1997 to 2001 (Caziani *et al.* 2007, p. 283). As discussed in Factor E, disturbance caused by collection activities further compounds the adverse effects of egg collection (see Factor E).

Increasing demand for eggs and increased access to habitats further exacerbates the species' already poor breeding success. In 1975, Morrison (1975, p. 81) reported that flamingo eggs were in great demand and that traders visited nesting areas, including Lagos Poopó and Uru Uru, to buy eggs from local Indians, transporting eggs away "by the truckload." As towns grow and mining operations expand, demand for eggs increases to satisfy the miners (del Hoyo *et al.* 1992, p. 521). Mining operations have infiltrated once isolated wetlands. In 1925, birds nesting at Laguna Cachi (part of Pastos Grandes, Bolivia) were considered secure from egg collecting due to the remote and inhospitable terrain (Walcott 1925, pp. 354–356). Today, Pastos Grandes, which is an important breeding ground in Bolivia, is the site of intense mineral prospecting (see Factor A).

Tourism and Ecotourism: As described in Factor A, ecotourism is prevalent at many wetlands inhabited by the Andean flamingo, including: Laguna Grande, Diamante, Brava y Mulas Muertas y Pozuelos (Argentina), Laguna de Colorada (Bolivia), Salar de Atacama, and the TDPS wetland complex, which includes Lagos Poopó and Uru Uru (the latter three wetlands in Chile). According to the Corporación Nacional Forestal (1996c, pp. 10–11), uncontrolled tourism, especially the use of four wheeled all-terrain vehicles, has become a problem at Laguna Negra.

The Eduardo Avaroa National Reserve (Reserve) in Bolivia encompasses Laguna Colorada, Laguna Kalina, and Salar de Chalviri (Ducks Unlimited 2007b, p. 43). The Reserve began collecting tourism data in 1999 (González 2006, p. 1). Since 2000, tourism has increased annually by about 5 percent per year, from 26,066 visitors in 2000 to 51,271 visitors in 2005 (González 2006, p. 2). Over the 6-year period, a total of 142,968 tourists visited the Reserve, primarily in the Bolivian winter months of July (24,629 visitors) and August (32,230 visitors). During the Andean flamingo breeding season (November to February), an average of 18,000 people visited the Reserve each month (Gonzalez 2006, p. 2). In 2005, ticket sales indicated that 65 percent of the tourists came to see the flamingos (González 2006, p. 2). Within the Reserve, problems associated with tourism include increased car traffic and trash, especially disposable bottles and other nonbiodegradable waste (Embassy of Bolivia 2008, pp. 7–8).

At Lago Titicaca (Peru), in addition to disturbance by local agriculturalists and fishermen, the large number of visitors and the noise of motorized vehicles has decreased the number of birds on the lake (INRENA 1996, p. 6). At Laguna Salinas (Peru), which provides habitat to all three South American flamingo species, excavation activities near the lake had a profound effect on the flamingos. Flamingos were driven away from areas where there was noise caused by excavating machinery, disrupting feeding and breeding activities. Flamingos fled nesting sites during disturbance activities (such as excavation), and some never returned, abandoning their nests (Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 137).

Summary of Factor B

Hunting for local consumption, egg collection, and tourism have a negative impact on Andean flamingo populations throughout their range. Hunting removes juveniles and adults from the population, which has already experienced a severe population decline within the past 30 years and is considered the rarest of all flamingo species in the world. Removal of adults from the population decreases the number of sexually mature specimens available for reproduction, may break pair bonds, and jeopardizes their already inconsistent breeding habits. Although egg-collecting has been carried out for years, and perhaps centuries, increased demand has intensified collection pressures. Egg collection is facilitated by the flamingo's colonial nesting practices and from increased access to once-remote wetlands from mining operations (Factor A). Disturbance from hunting, egg collection, and tourism exacerbates the species' poor breeding success (Factor E). Therefore, we find that hunting for local consumption, egg collection, and tourism are threats to the continued existence of the Andean flamingo throughout its range.

With regard to hunting for international trade, we believe that the small number of live specimens that were traded and the near lack of trade for commercial purposes, combined with the fact that there have been no shipments of live Andean flamingos since 1982, indicate that the level of international trade, controlled via valid CITES permits, is small. Therefore, we find that harvest of flamingos for international trade is not a threat to the continued existence of the Andean flamingo.

C. Disease or Predation

Disease: Flamingos are nomadic species with the potential to disperse pathogenic microorganisms and horizontally transmit disease agents due to their flocking behavior (Uhart *et al.* 2006, p. 32). Uhart *et al.* (2006, p. 32) found 13 antibodies for various infectious diseases (indicating exposure) in a study of all 3 altiplano flamingos.

Changes in water availability and habitat quality may favor the emergence of pathogens, which could affect the health of flamingos (Uhart *et al.* 2006, p. 32). However, we are not aware of any pathogenic diseases that are currently affecting Andean flamingos in the wild.

A massive mortality of flamingos and other aquatic birds (on the order of several thousands) was recorded in January 1975 around the mouth of the Segundo River in Mar Chiquita (Argentina). Bucher (1992, p. 183) believed the observed mortality was caused by an outbreak of avian botulism. The affected birds showed typical field signs of the disease (Locke and Friend 1987, as cited in Bucher 1992, p. 183), including: Paralysis of voluntary muscles, inability to walk or fly, and a tendency to congregate along vegetated peninsulas and islands, where lines of carcasses were seen at the water's edge. Avian botulism outbreaks are associated with receding water conditions in areas of flooded vegetation during periods of high temperatures (Bucher 1992, p. 183). Thus, activities that decrease water levels at the lakes, as outlined in Factor A, could cause disease outbreaks and result in flamingo mortality.

In 2002, Fabry and Hilliard (2006, p. 49) began a flamingo monitoring program in the Atacama Desert to explore the declining flamingo populations in the region, test for linkages between human activity and declining flamingo populations, and evaluate flamingo health. The team has marked and released over 80 flamingos and has identified several pathogens, including Newcastle's disease, Avian influenza, and West Nile virus, as possible causes for increasing flamingo mortality. This research is ongoing.

Predation: Walcott (1925, p. 354) noted that freshwater gulls (*Larus serranus*) at Laguna Colorada (Bolivia) were likely depredating flamingo eggs. Derlindati (as reported by Arengo 2009, p. 56) observed predation on flamingos by Andean wolf (*Dusicyon cuplaeus*) and Peregrine falcon (*Falco peregrinus*). Other potential predators include pampas fox (*Dusicyon griseus*), variable hawk (*Buteo poliosoma*), and Andean caracara (*Phalcobaenus albogularis*). Johnson *et al.* (1958, p. 299) concluded predation by land-bound predators was not a significant threat to this species, given the difficulty of access to nesting sites. However, nesting sites are no longer as inaccessible as they were in the mid-20th century. Human activities (such as mining, urbanization, tourism, and concomitant infrastructure development) have infiltrated wetlands previously considered inaccessible (Factor A). This situation has been compounded by the ongoing drought conditions throughout a large portion of the Andean flamingo's range (Factor E). In January 1996, Caziani & Derlindati (2000, p. 124) reported that a colony of unidentified flamingo nests at Lagunas Vilama, where Andean and James' flamingos are known to breed, were found on dry land—probably due to an unexpected retraction of the lake—leaving 1,500 abandoned nests, some of which had eggs from that season. Because this species nests in the open, laying eggs directly on the ground, many nesting sites can be more easily accessed, by humans and nonhuman predators. In the 2006–2007 breeding season, Childress *et al.* (2007, p. 7) noted that an entire colony of 600 unidentified flamingo nests at Laguna Brava (Argentina, where Andean flamingos are known to nest) had been decimated by foxes (species not identified). The Corporación Nacional Forestal (1996a, pp. 12) reported that foxes ate flamingo eggs and chicks at Los Flamingos National Reserve (Chile), but did not document the extent of this predation.

Summary of Factor C

Several diseases have been identified in the flamingo population and are being monitored. Potential for disease outbreaks warrants continued monitoring and may become a more significant threat factor in the future, especially if habitat alteration combined with the ongoing drought continue to decrease water levels at the lakes (Factors A and E). Disease has been identified and has at least in one case likely caused mortality (botulism). Therefore, we find that disease in flamingos is a threat to the continued existence of the Andean flamingo.

Predation by foxes, gulls, and other predators results in direct removal of eggs, juveniles, and adults from the population. Predation can have devastating consequences for the species, especially given the colonial nature of the species and its tendency to nest in only a few wetlands each year. Predation removes potentially reproductive adults from the breeding pool, disrupts mating pairs, and exacerbates the species' already poor breeding success (these effects are discussed in detail under Factor B). Therefore, we find that predation is a threat to the continued existence of the Andean flamingo throughout its range.

D. Inadequacy of Existing Regulatory Mechanisms

Two regulatory issues can be discussed on a regional level: Protections under CITES, and Ramsar designations.

CITES: The Andean flamingo is listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES is an international treaty among 175 nations, including all four Andean flamingo countries and the United States, that entered into force in 1975 (UNEP–WCMC 2008a, p. 1). In the United States, CITES is implemented through the U.S. Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*). The Act designates the Secretary of the Interior as the Scientific and Management Authorities to implement the treaty with all functions carried out by the Service. Under this treaty, countries work together to ensure that international trade in animal and plant species is not detrimental to the survival of the species, by regulating the import, export, re-export, and introduction from the sea of CITES-listed animal and plant species (USFWS 2008, p. 1). As discussed under Factor B, we do not consider international trade to be a threat impacting the Andean flamingo and consider that this international treaty has minimized the potential threat to the species from international trade.

Ramsar: The Ramsar Convention, signed in Ramsar, Iran, in 1971, is an multilateral treaty which provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. There are presently 157 Contracting Parties to the Convention (including all of the countries where the Andean flamingo occurs), with 1,702 wetland sites, totaling 153 million hectares, designated for inclusion in the Ramsar List of Wetlands of International Importance. Many wetlands of importance to the Andean flamingo's life cycle are designated as wetlands of international importance under the Ramsar Convention. In Argentina, these include: Laguna de Mar Chiquita (Bárbaro 2002, pp. 1–12), Lagunas de Vilama (de la Zerda *et al.* 2000, pp. 1–6), Laguna Brava (de la Fuente 2002, pp. 1–10), and Laguna de Pozuelos (Administration de Parques Nacionales 1994, pp. 1–3). In Bolivia, Lagos Poopó and Uru Uru (Rocha 2002, pp. 1–13) and Laguna Colorada (Rocha and Eyzaguirre 1998, pp. 1–11) are Ramsar wetlands. Chilean Ramsar wetlands include Laguna del Negro Francisco and Laguna Santa Rosa (Corporación Nacional Forestal 1996c, pp. 1–12); Salar de Huasco (Corporación Nacional Forestal 1996b, pp. 1–5); and Salar de Surire (Soto 1996, pp. 1–9). In Peru, Lago Titicaca (INRENA 1996, pp.

1–14) and Laguna Salinas (Jefatura de la Reserva Nacional de Salinas y Aguada Blanca 2003, pp. 1–14) are Ramsar wetlands. Experts consider Ramsar to provide only nominal protection of wetlands, although they also note that such a designation may increase international awareness of its ecological value (Jellison *et al.* 2004, p. 19). However, as described below, activities that negatively impact the Andean flamingo are ongoing within Ramsar wetlands, including the curtailment and destruction of Andean flamingo habitat (Factor A), and hunting and overutilization of Andean flamingos (Factor B). As such, this designation has not mitigated the impact of threats on the Andean flamingo.

Due to the wide range of Andean flamingos in four countries along the Andes, the remaining analysis of existing regulatory mechanisms will be presented on a country-by-country basis, in alphabetical order.

Argentina: The Andean flamingo is considered vulnerable in Argentina (Goldfeder & Blanco 2007, p. 191). The Provincial Law of Game No. 3,014/73 (Law No. 3,014 1973, pp. 1–5) was established in Argentina in 1973. Article 7 of this law strictly prohibits hunting, possession, or transportation of wild animals, their parts, offspring, nests, or eggs, except as permitted by regulation (Law No. 3014, p. 7). Resolution No. 513/2007 (2007, pp. 1–7) and Resolution No. 1,089/98 (1998, pp. 1–4) prohibit hunting, trapping, interprovincial transport, or international trade in certain species of wildlife, including the Andean flamingo. Despite this law, hunting for local consumption of Andean flamingo individuals and eggs continues at wetlands of known importance in Argentina, including Laguna Pozuelos and Mar Chiquita (Barbarán 2004, p. 11; Bucher 1992, p. 183; Senz 2006, p. 103) (see Factor B). Therefore, these laws are inadequate to mitigate the threat of Andean flamingo hunting for local consumption.

Protected areas have been established by regulation at several sites occupied by the Andean flamingo in Argentina, including: (a) Laguna Brava and Laguna de Mulas Muertas, (b) Laguna de Mar Chiquita, (c) Laguna de Pozuelos, and (d) Lagunas de Vilama. As described below, the regulatory mechanisms behind these designations are inadequate, primarily due to lack of enforcement, to address or mitigate ongoing activities that are negatively impacting the Andean flamingo within these protected areas, including the curtailment and destruction of Andean flamingo habitat (Factor A), and hunting and overutilization of Andean flamingos (Factor B).

(a) Laguna Brava and Laguna de Mulas Muertas: Provincial Law No. 3944 declared the creation of the Reserva de Vicuñas y Protección del Ecosistema Laguna Brava, establishing Laguna Brava as a protected reserve in La Rioja Province (BLI 2008, p. 40). Laguna Mulas Muertas, where the Andean flamingo has overwintered, is also included within this reserve (BLI 2008, p. 40; Bucher *et al.* 2000, p. 120). This law also established the designated managing authorities and providing for the formulation of regulations for the operation of the Reserve, under the Provincial System of Protected Areas. There is an outpost for park rangers in the town of Alto Jague that is equipped with a 4x4 vehicle and a permanent staff of four park rangers assigned to the protected area. Despite this designation, the habitat within the reserve continues to be curtailed and disrupted by human activities. Recent road construction (de la Fuente 2002, p. 8) (see Factor A) and increased tourism, including the use of off-road vehicles (BLI 2008, p. 40) (see Factors A and B), are ongoing. Multinational mining companies have undertaken prospecting activities within the Reserve, indicating the potential that mineral extraction could occur there (de la Fuente 2002, p. 8) (see Factor A).

(b) Laguna de Mar Chiquita: Laguna de Mar Chiquita is an important wintering site for Andean flamingos and was included in the System of Protected Nature Areas of the Province of Córdoba in 1966 (BLI 2008, pp. 34–37). In 1994, the area was declared a multiple-use reserve (Reserva de Bañados del Río Dulce y Laguna de Mar Chiquita) (BLI 2008, p. 36; Ducks Unlimited 2007a, p. 22). In accordance with existing legislation, environmental protection is achieved through the regulated use of natural resources, respecting its characteristics, ecological status, wildlife and potential resources. In 2000, a group of provincial park wardens was formed to patrol the reserve. In 2001, there were four new park wardens, one expert and a technician to implement environmental legislation in the reserve (Bárbaro 2002, p. 10). Activities that cause habitat destruction are ongoing around Mar Chiquita, including pollution from agriculture, water contamination from agrochemicals (BLI 2008, pp. 36–37; Johnson and Arengo 2001, p. 38) (see Factor A), and disturbance from ecotourism activities (Ducks Unlimited 2007a, p. 22) (see Factor B).

(c) Laguna de Pozuelos: Located in Jujuy Province, Laguna de Pozuelos was designated a Natural Monument in 1981 and a UNESCO Biosphere Reserve in 1990 (BLI 2008, p. 31; Ducks Unlimited 2007a, p. 2). It is managed by the National Parks Administration of Argentina and is subject to the regulation of Law No. 22,351 (1980, pp. 1–11) concerning National Parks, Natural Monuments, and National Reserves (Administration de Parques Nacionales 1994, pp. 1–2). Under Law No. 22,351 (1980, pp. 2), an area that has been declared a Natural Monument is conferred "absolute" protection, such that the land, things, and species of animals and plants thereon are inviolable. However, under this law, only the water surface is protected, and, despite this protection, mining and resultant water contamination continue (de la Fuente 2002, p. 8; Ducks Unlimited 2007a, p. 4; Goldfeder and Blanco 2007, p. 193) (see Factor A). According to the National Park Administration, a trained warden is posted at the site (Administration de Parques Nacionales 1994, pp. 1–2). Despite this, until recently hunting continued to threaten the Andean flamingo at Laguna Pozuelos, where individuals and their eggs were hunted for subsistence and local commerce (Administration de Parques Nacionales 1994, p. 2; BLI 2008, p. 31) (see Factor B).

(d) Lagunas de Vilama: The lakes that form Lagunas de Vilama are located within the Reserva Altoandina de la Chinchilla, under the jurisdiction of the province of Jujuy in accordance with Provincial Decree No. 2,213E–92 (BLI 2008, pp. 52–53; de la Zerda *et al.* 2000, p. 5; Provincial Decree No. 2,213E 1992, pp. 1–5). This Reserve, along the Argentinean/Chilean border, was created in 1992 specifically to protect the chinchilla (*Eriomis brevicaudata*), the vicuña (*Vicugna vicugna*), and numerous birds (Provincial Decree No. 2,213 E 1992, p. 1). Despite this regulation, habitat destruction caused by prospecting for minerals and tourism (Factor A) and egg collection (Factor B) are factors that continue to threaten the Andean flamingo within the Lagunas de Vilama wetland system (BLI 2008, p. 553; Caziani *et al.* 2001, p. 106).

Bolivia: The 1975 Law on Wildlife, National Parks, Hunting and Fishing (Decree Law No. 12,301 1975, pp. 1–34) has the fundamental objective of protecting the country's natural resources. This law governs the protection, management utilization, transportation, and selling of wildlife and their products; the protection of endangered species; habitat conservation of fauna and flora; and the declaration of national parks, biological reserves, refuges, and wildlife

sanctuaries, tending to the preservation, promotion, and rational use of these resources. In Bolivia, the Andean flamingo is protected in general in Article 111 of the Environmental Law No. 1333 (1992), and also, in general, by Supreme Decree 22641 (8 November 1990), which declares an indefinite moratorium on hunting any wildlife species (Arengo 2009, p. 63). However, hunting of flamingos continues to be a threat at Lake Poopó (Rocha 2002, p. 10; Sáenz 2006, pp. 88–89) (Factor B).

Wetlands frequented by the Andean flamingo in Bolivia that have some level of protected status include: (a) Lago Poopó and (b) Laguna Colorada, Laguna Kalina, and Salar de Chalviri. However, the regulations are ineffective at reducing the threat of habitat destruction (Factor A), hunting and egg collection (Factor B), and human disturbance (Factor E) within these protected areas.

(a) Lago Poopó: In 2000, Lago Poopó, an overwintering site for the Andean flamingo (see Current Range), was declared a natural heritage site and ecological reserve under Law No. 2,097 (2000, pp. 7–8) (Declaration of National Patrimony and Ecological Reserve of Oruru, for Lake Poopó in the Department of Oruru). Law No. 2,097 (2000, p. 7) allowed for international cooperation on the conservation and rehabilitation of the lake. However, as of 2002, Rocha (2002, p. 11) noted that little had been done to ensure the lake's conservation. In their review of the conservation and management challenges of saline lakes, Jellison *et al.* (2004, p. 14) concluded that because Lago Poopó is not part of the national system of protected areas, there has been little attention to its conservation and "wise use" (Jellison *et al.* 2004, p. 14).

Lago Poopó is on the terminal end of the TDPS (Titicaca-Desaguadero-Poopó-Salar de Coipasa) hydrological system along the border with Peru (Jellison *et al.* 2004, p. 11, 120), with Lago Titicaca straddling the border between the two countries (Ronteltap *et al.* 2005, p. 1) (see Current Range: Bolivia). Water contamination from mining and metallurgical industries has contaminated the TDPS water system for many years (Adamek *et al.* 1998, Cardoza *et al.* 2004—as cited in Jellison *et al.* 2004, p. 12; Jellison *et al.* 2004, p. 11; Ricalde 2003, pp. 10, 91). Because Lago Poopó is located at the terminal end of the endoreic (closed) TDPS drainage system, pollutants are more likely to concentrate there (Jellison *et al.* 2004, p. 120) (Factor A). In addition to water contamination, Andean flamingos at Lago Poopó are exposed to threats from indiscriminant hunting (Rocha 2002, p. 10; Sáenz 2006, pp. 88–89) (Factor B).

(b) Laguna Colorada, Laguna Kalina, and Salar de Chalviri: Lagunas Colorada and Kalina are important breeding sites that belong to the same hydrological water basin (Ducks Unlimited 2007b, p. 13). Salar de Chalviri is a wetland complex that provides habitat for the Andean flamingo during the winter. Laguna Colorada was one of five wetlands, and the only wetland in Bolivia that, in 2005, harbored 50 percent of the breeding population (Caziani *et al.* 2006, p. 13). In the most recent simultaneous census, for 2006–2007, breeding in Bolivia occurred only at two wetlands, Laguna Colorada and Kalina (see Current Range). Therefore, the effects of habitat reduction (Factor A), hunting, and tourism (Factor B) at these wetlands greatly diminish the numbers of reproductive adults and juvenile offspring, and the overall breeding success of the species.

The Eduardo Avaroa National Reserve (La Reserva Nacional de Fauna Andina Eduardo Avaroa) (Reserve) was established in 1973 (Supreme Decree 11,231 1973, pp. 1–2), expressly to protect Laguna Colorada for its role in supporting a large diversity of wildlife, including rare species such as the Andean flamingo, and to counter a growing commerce in these species, which were being harvested from the area. The Decree established the boundaries of the Reserve, declared hunting within the park illegal, established a guard post within the park, and empowered the Minister of Agriculture and Cattle to conduct the necessary biological and ecological studies to manage the park. The area of the Reserve was defined as Laguna Colorada itself (which covers approximately 12,948 ac (5,240 ha)) (Ducks Unlimited 2007b, p. 13), plus a 6-mi (10-km) radial area surrounding the lake (Supreme Decree No. 11,239 1973, p. 1). Under Supreme Decree No. 18,431 (1981, pp. 1–2), the limits of the Reserve were extended to 1,764,515 acres (714,074 ha). With this expansion, Laguna Kalina and Salar de Chalviri were thus incorporated within the Reserve (Ducks Unlimited 2007b, pp. 13–16). In 1992, the Reserve was added to the Protected Area System (Sistema Nacional de Areas Protegidas (SNAP)) (FUNDESNAP 2008, p. 1; Rocha and Eyzaguirre 1998, pp. 8–9).

As of 1998, the Reserve had a management plan, but it was not being implemented. However, efforts were being made to manage tourism with the objective of wetland conservation and to patrol the area in order to avoid pilferage of flamingo eggs during the breeding season (Rocha and Eyzaguirre 1998, pp. 8–9). As of 2004, the following ongoing problems were identified within the Reserve: Uncontrolled and badly managed tourism; high concentrations of activities within the lagoons, including Laguna Colorada; lack of environmental controls for the mining industry; implementation of a geothermal project; uncertain financing to support activities to manage the protected area; unregulated use of archeological and natural resources; and weak management of the protected area (Flores 2004, p. 5). At Laguna Colorada, water contamination from tourism (RIDES 2005, p. 21; Rocha and Eyzaguirre 1998, p. 8) and livestock grazing are ongoing (Ducks Unlimited 2007b, p. 14; Flores 2004, pp. 35–36) (Factor A). Egg collecting has been reported at Laguna Colorada for many years (Hurlbert and Keith 1979, p. 332; Johnson *et al.* 1958, p. 292; Rocha and Eyzaguirre 1998, p. 1) and continues to be a problem within the Reserve (Ducks Unlimited 2007b, p. 17) (Factor B). Disturbance caused by collection activities further compounds the adverse effects of egg collection (see Factor E).

Supreme Decree No. 28,591 (2006, pp. 2–17) regulated the management of tourism within the protected areas that make up the National System of Protected Areas. It established a framework of regulatory provisions related to tourism so that each protected area could develop rules specific to the reserve, to ensure the conservation and protection of natural and cultural heritage. The Eduardo Avaroa National Reserve (Reserve) has been working toward a tourism management program for some time, including the collection and examination of tourism data for the Reserve in order to better understand how the Reserve is used and how to adjust their management of activities (González 2006, p. 1). However, tourism continues to increase within the Reserve (González 2006, p. 2), with concomitant stress on and contamination of the water resources (RIDES 2005, p. 21; Rocha and Eyzaguirre 1998, p. 8) (Factor A), along with the deleterious effect of human disturbance on the species (CONAF, Region II, as cited in INRENA 1996, p. 11) (Factor E).

Chile: Chile outlined the methods by which they classify various wild species as threatened or endangered species under Supreme Decree No. 75 (2006, pp. 1–6)—Reglamento para la Clasificación de Especies Silvestres—and has just initiated the process of classifying species with the publication of two proposed lists of species (Exenta No.

1,579 2006, pp. 1–4) (Da Inicio a Proceso de Clasificación de Especies e Indica Listado de Especies a Clasificar), but the Andean flamingo has not been listed nor has it been proposed for listing as threatened or endangered (see www.conama.cl/clasificacionespecies/). Therefore, there is no regulatory mechanism that specifically protects the Andean flamingo on a national level.

The Chilean National Commission on the Environment (Comisión Nacional del Medio Ambiente (CONAMA)) was established in 1990, and, in March 1994, the General Environmental Law (Ley de Bases Generales del Medio Ambiente) went into effect. The General Environmental Law restructured CONAMA and introduced new instruments of environmental management that had not previously existed: Environmental education and research; public participation; environmental quality standards to preserve nature and environmental heritage; emission standards; plans for management, prevention, and cleanup; responsibility for environmental damage; and the system of environmental impact assessment. Under the General Environmental Law, several new regulations have been established over more than 20 areas, including atmospheric, water, noise, and light pollution (Embassy of Chile 2007, pp. 1–2). However, water contamination from mineral extraction, agricultural pursuits, sewage, and trash (Factor A), and disturbance from noise (Factor E), are ongoing at Chilean wetlands of importance to Andean flamingo life cycle, including: (a) Laguna Ascotán and (b) Salar de Atacama. Therefore, this regulatory mechanism is not being effectively implemented to reduce the threats to the Andean flamingo.

(a) Laguna Ascotán was once considered a breeding site for the species (Johnson *et al.* 1958, p. 296; Kahl 1975 p. 100). While the species continues to to feed at the site (Vilina and Martínez 1998, p. 28), there are no recent reports of nesting there. This may be attributed to mineral extraction (including borax) (Johnson 1958, p. 296) (Factor A) and concomitant disturbance activities (Factor E).

(b) Salar de Atacama has been a consistent and primary breeding ground (Bucher *et al.* 2000, p. 119; Childress *et al.* 2007a, p. 7; Ducks Unlimited 2007c, pp. 1–4; Johnson *et al.* 1958, p. 296). Mining activities and increased human presence and tourism have disturbed foraging and nesting birds there (Corporación Nacional Forestal 1996a, p. 9). Over 50,000 people visit Salar de Atacama (Chile) and surrounding areas each year (RIDES 2005, p. 21). These activities lead to water pollution, increased water usage, and disturbance of the flamingo life cycle. The breeding success of the species has been steadily decreasing at Salar de Atacama (Fabry and Hilliard 2006, p. 1). In Chile, breeding was attempted at four sites in Salar de Atacama. A total of 2,900 pairs of Andean flamingos laid eggs, but only 538 chicks survived (Childress *et al.* 2007a, p. 7).

Protected areas have been established by regulation at four sites occupied by the Andean flamingo in Chile: (a) Laguna del Negro Francisco, (b) Salar de Surire, and (c) Lagunas Atacama and Pujsa. These wetlands have figured as consistent breeding and overwintering habitats for many years (Bucher *et al.* 2000, p. 119; Childress *et al.* 2007a, p. 7; Ducks Unlimited 2007c, pp. 1–4; Fjeldså and Krabbe 1990, p. 86; Hellmayr 1932, p. 312; Johnson *et al.* 1958, p. 296; Kahl 1975 p. 100). However, as described below, the regulations are ineffective at reducing the threats of habitat destruction (Factor A), hunting and egg collection (Factor B), and human disturbance (Factor E) within these protected areas.

(a) Laguna del Negro: Salar de Negro Francisco provides year-round habitat for the Andean flamingo (Caziani *et al.* 2007, p. 279; Ducks Unlimited 2007c, p. 6; Valqui *et al.* 2000, p. 112). Laguna del Negro Francisco was included in the Parque Nacional Nevado Tres Cruces that forms part of the national system of protected wildlife areas (SNASPE) (Corporación Nacional Forestal 1996c, p. 11). Despite this designation, the Corporación Nacional Forestal (1996c, pp. 10–11) reported several persistent threats, including: (1) Concessions for water use held by the mining companies that work on the altiplano; (2) prospecting and digging for minerals and underground water, which involves road building that makes it possible for people to reach places that were formerly inaccessible; (3) intense illegal bird hunting (Bucher 1992, p. 183, Corporación Nacional Forestal 1996c, p. 11); and (4) uncontrolled tourism, especially the use of four-wheeled all-terrain vehicles (Corporación Nacional Forestal 1996c, pp. 10–11).

(b) Salar de Surire: Andean flamingos breed and overwinter at this wetland (Caziani *et al.* 2006, p. 13; Caziani *et al.* 2007, p. 279; McFarlane 1975, p. 88; Valqui *et al.* 2000, p. 112). In 2001, Salar de Surire, along with Salar de Atacama, was the most successful Andean flamingo breeding site in Chile (Caziani *et al.* 2007, p. 279). The Parque Nacional Lauca was created in 1970, incorporating approximately 1,285,000 acres (520,000 ha), including the Salar de Surire. In 1983, the limits of the national park were redefined, and three administrative units for protected nature areas were created: The present Parque Nacional Lauca, the National Nature Reserve Las Vicuñas, and the Salar de Surire Nature Reserve, including part of the salt marsh of 27,906 acres (11,298 ha) (Soto 1996, p. 8). Lauca Biosphere Reserve (including all three administrative units) was designated a UNESCO Biosphere reserve in 1983 (Rundel and Palma 2000, p. 262). Despite this designation, the threat of mining in the park continues (Rundel and Palma 2000, pp. 270–271). The number of people visiting remote Salar de Surire (Chile), a primary Andean flamingo breeding site, was under 1,000 as of 1995, but increasing (Soto 1996, p. 7). One travel website advertises the availability of a campsite (*www.chilecontact.com/en/conozca/surire.php*), noting that no public transportation is available and recommending the use of four-wheel drive vehicles to access and tour the area. The impact of tourism is discussed under Factor B.

(c) Salars de Pujsa and Atacama: As mentioned above, Salar de Atacama provides year-round flamingo habitat and nesting sites. Salar de Pujsa was reported as a nesting site in 1997 (Valqui *et al.* 2000, p. 112), although no nesting was reported there in the 2004, 2005, or 2006 breeding seasons (Childress *et al.* 2005, p. 7; Childress *et al.* 2006, p. 7; Childress *et al.* 2007a, p. 7). These Salars are among the wetlands that were included in the Los Flamencos National Reserve (Reserve), designated in April 1990 by Decree No. 50 of the Ministry of Agriculture, although only part of Salar de Atacama is included. These wetlands form an important area for the biological stability of flamingo populations (Corporación Nacional Forestal 1996a, pp. 12–13).

In addition to the Reserve management plan, there is a proposed strategy for the sustainable management and regulation of activities in the salt marshes and for their conservation. The most recent reports available deem the management at this site insufficient, due to the limited number of staff and the large area of the reserve (Corporación Nacional Forestal 1996a, pp. 12–13). Locals at Salar de Atacama hunt the Andean flamingo for its feathers and for ritualistic use (Castro and Varela 1992, p. 22) (Factor B). Road building has increased access to nesting areas and facilitated hunting and egg collection (Corporación Nacional Forestal 1996a, pp. 11–12; Ducks Unlimited 2007c, p. 3)

(Factor A). Water extraction in this endoreic (closed) basin, which is fed only by summer storms and winter snowmelts, is ongoing (Corporación Nacional Forestal 1996a, pp. 8–9). The rights to 13,137 ft^3/s (6.2 m^3/s) of water have been allocated; however, the water recharge in the basin is only about 10,594 ft^3/s (5 m^3/s) (RIDES 2005, p. 16) (Factor A).

Peru: The Andean flamingo is considered vulnerable by the Peruvian government under Supreme Decree No. 034–2004–AG (2004, p. 276855), which prohibits hunting, taking, transport, or trade of endangered species, except as permitted by regulation. At Laguna Salinas (an overwintering site in Peru), hunters have previously killed flamingos for target practice or just "to get a close look at one." The extent of this persecution at Laguna Salinas is unclear, but may have abated since installation of a park guard watch post in mid-1998 (Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 137). At Lago Titicaca (Peru), localized hunting and the collection of birds' eggs may be ongoing (Ducks Unlimited 2007d, p. 27). Excessive hunting is a problem at Lago Parinacochas (an overwintering site in Peru) (Ducks Unlimited 2007d, p. 23). The Reserva Nacional Titicaca National and Reserva Nacional Salinas y Aguada Blanca are not under strict protection regimes and allow subsistence level of activities, including hunting. Laguna Parinacochas is not under any legal protection. Therefore, this regulatory mechanism is ineffective at protecting the Andean flamingo or mitigating the threat of hunting (Factor B).

Protected areas have been established through regulation at two sites occupied by the Andean flamingo in Peru: (a) Laguna Salinas and (b) Lago Titicaca. Lagunas Salinas has long provided overwintering habitat for the Andean flamingo (Caziani *et al.* 2007, p. 279; Hellmayr & Conover 1948, p. 277; Kahl 1975, pp. 99–100). Fourteen percent of the population overwintered there in 2003 (Ricalde 2003, p. 91). Lago Titicaca is part of the TDPS wetland system, to which Lagos Poopó and Uru Uru (Bolivia) belong. These last two lakes in the wetland complex provide an important variety of overwintering habitat for the Andean flamingo, where more than 50 percent of the known population of Andean flamingos overwintered in 2000 (Caziani *et al.* 2007, p. 279; Mascitti and Bonaventura 2002, p. 62). However, as described below, the regulations are ineffective at reducing the threat of habitat destruction (Factor A), hunting and egg collection (Factor B), predation (Factor C), and human disturbance (Factor E) within these protected areas.

(a) Laguna Salinas: Laguna Salinas is part of the Reserve National Salinas and Aguada Blanca (Reserve), established by Supreme Decree No. 070–79–AA in 1979 (1979, pp. 260–262). A master plan for the Reserve was adopted in 2001 (Jefatura de la Reserva Nacional de Salinas y Aguada Blanca 2003, pp. 6–7). However, at Laguna Salinas, which provides habitat for all three Andean flamingo species (Ducks Unlimited 2007d, p. 26), the habitat is being destroyed or modified by mining, fires, agriculture, and drainage for drinking water (Ricalde 2003, p. 91; Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 135) (Factor A). Flamingos are absent from polluted areas of the lake (Factor A); Andean flamingos are sensitive to reduced water levels (Factor A); and disturbance activities disrupt flamingo nesting and eating habits on the lake (Factor E) (Ugarte-Nunez and Mosaurieta-Echegaray 2000, pp. 135, 137, 139). In addition to reducing flamingo habitat availability, increased road construction to support mining and tourism (Factor A) facilitates hunting and predator access to nesting grounds (Corporación Nacional Forestal 1996a, pp. 12) (Factors B and C).

(b) Lago Titicaca: The Titicaca National Reserve (Reserva Nacional del Titicaca) (Reserve) (89,364 acres (36,180 ha)) encompasses approximately 8 percent of the Peruvian portion of Lago Titicaca (Supreme Decree No. 185–78–AA 1978, p. 257). The Reserve was created in 1978 (Chief Resolution No. 311–2001–INRENA 2001, pp. 413–415) to guarantee the conservation of its natural resources because of the existence of exceptional characteristics of wild fauna and flora, scenic beauty, and traditional use of natural resources in harmony with the environment. In addition, it was created to promote the socioeconomic development of the neighboring populations through the wise use of natural resources and the promotion of tourism. The Peruvian Navy controls navigation on all of the lakes in Peru, including boats that visit the reserve. It also patrols and monitors the border, and ensures compliance with regulations on hunting and the use of wildlife resources from the lake (INRENA 1996, pp. 9–10). The Institute of Natural Resources (Instituto Nacional de Recursos Naturales—INRENA) noted that the large number of visitors and noise disturbance from motorized vehicles negatively impacted the number of birds on the lake (Factor E) (INRENA 1996, p. 6). The waters of Lago Titicaca are polluted from boat traffic and domestic sewage, and localized hunting and egg collection may be occurring there (Ducks Unlimited 2007d, p. 27; Jellison *et al.* 2004, p. 11; Ricalde 2003, p. 91).

Summary of Factor D

The existing regulatory mechanisms or enforcement of these mechanisms throughout the species' range are inadequate to protect the Andean flamingo or mitigate the factors that are negatively impacting the species and its habitat, including habitat destruction (Factor A), hunting and tourism (Factor B), predation (Factor C), and disturbance (Factor E). Therefore, we find that the existing regulatory mechanisms are inadequate to mitigate the threats to the continued existence of the Andean flamingo throughout its range.

E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

Two additional factors are having a negative impact on the Andean flamingo population: Human disturbance and drought.

Human disturbance: Walcott (1925, pp. 355–356) noted that the birds are shy, and, when eggs are collected by humans, Andean flamingos do not return to lay a second egg. Jameison and Bingham (1912, pp. 12, 14) noted that extensive sheep and cattle pastures existed around Lago Parinacochas and that flamingos no longer nested there. Many human-induced disturbances exist throughout the Andean flamingos' range. Mining, population growth, tourism, and associated road construction and maintenance generally increase disturbance and noise and can make nesting and foraging areas unsuitable for the Andean flamingo. These disturbances have led to decreased numbers of birds foraging and nesting at several sites that are important for the Andean flamingo reproductive cycle, including: Salar de Atacama (Chile) (Corporación Nacional Forestal 1996a, p. 9), Laguna Colorada (Bolivia) (Rocha and Eyzaguirre 1998, p. 8), and the TDPS wetland system (INRENA 1996, p. 6). Flamingos that are disturbed during nesting season have been known to abandon their nests (Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 137). Road construction has increased access to wetlands, facilitating additional disturbances from foot traffic and motorized vehicles at lakes, such as Laguna Salinas (Peru) (Ugarte-Nunez and Mosaurieta-Echegaray 2000, p. 137), Lago Loriscota (Peru) (Valqui *et al.* 2000, p. 112), Laguna Brava (Argentina) (BLI 2008, p. 40; de la Fuente 2002, p.

8), and Lago Titicaca (Peru) (INRENA 1996, p. 6). Disturbance has increased with the increase in tourism and human encroachment into Andean flamingo wetlands, including: Laguna de Mar Chiquita (Argentina) (Ducks Unlimited 2007a, p. 22), Laguna Brava (Argentina) (BLI 2008, p. 40), Lagunas de Catamarca (Argentina) (Caziani *et al.* 2001, p. 106), Laguna Negro Francisco (Chile) (Corporación Nacional Forestal 1996c, pp. 10–11), Laguna de Colorada (Bolivia) (Embassy of Bolivia 2008, pp. 7–8), Salar de Atacama (Chile), and the TDPS wetland complex, which includes Lagos Poopó and Uru Uru (Chile) (INRENA 1996, p. 6).

Long-lived species with slow rates of reproduction, such as the Andean flamingo, can appear to have robust populations, but can quickly decline towards extinction if reproduction does not keep pace with mortality (BLI 2008, p. 2; Bucher 1992, p. 183; del Hoyo *et al.* 1992, p. 517). In the case of Andean flamingos, Conway (W. Conway, as cited in Valqui *et al.* 2000, p. 112) suggests that a stable population can be maintained if the species' breeding success is good every 5–10 years. Andean flamingos have temporally sporadic and spatially concentrated breeding patterns, and their breeding success and recruitment are low (Caziani *et al.* 2007; Childress *et al.* 2005, p. 7; Childress *et al.* 2006, p. 7; Childress *et al.* 2007a, p. 7). Productivity estimates from intensive studies of breeding sites in Chile indicate marked fluctuations over the past 20 years, with periods of very low breeding success (Arengo in litt. 2007, p. 2). Reproduction is spatially concentrated in just a few wetlands (Childress *et al.* 2005, p. 7; Childress *et al.* 2006, p. 7; Childress *et al.* 2007a, p. 7; Valqui *et al.* 2000, p. 112).

Drought: The altiplano region underwent a drought from the early 1990s until 2004 which affected Andean flamingo populations. In addition to this drought, the water levels of the salars and lagunas occupied by the Andean flamingo normally expand and contract seasonally, depending in large part on summer rains to "recharge" or refill them (Bucher 1992, p. 182; Caziani and Derlindati 2000, pp. 124–125; Caziani *et al.* 2001, p. 110; Mascitti and Caziani 1997, p. 328). Laguna de Mar Chiquita (Argentina) fluctuates by up to 20 in (50 cm) in the dry season (Ducks Unlimited 2007a, p. 21). In addition to seasonal flucuations, water levels fluctuate up to 57 cm daily at the northern end of the lake, due to regular strong winds making some sites available for feeding while others unavailable on a daily basis. It is estimated that up to 95 percent of the total water input in the TDPS water system evaporates (Ronteltap *et al.* 2005, p. 2). In addition to the seasonal cycle of expansion and contraction, there are longer-term cycles in which lakes experience extended periods of expansion or contraction (Caziani and Derlindati 2000, p. 122). For instance, Laguna Pozuelos occasionally dries completely—on about a 100-year cycle. The last time it dried out completely was in 1958 (Mascitti & Caziani 1997, p. 321). According to researchers, wetlands have been drying out on a regional scale since the early 1990s due to extensive drought conditions (Caziani and Derlindati 2000, pp. 124–125; Caziani *et al.* 2001, p. 110; Mascitti and Caziani 1997, p. 328). The shallow wetlands preferred by Andean flamingos are subject to high rates of evapotranspiration, and drought conditions accelerate this process (Caziani and Derlindati 2000, p. 122).

Andean flamingos are sensitive to reduced water levels (Ugarte-Nunez and Mosaurieta-Echegaray 2000, pp. 135). The flamingo population at Laguna Pozuelos, which has shrunk to an estimated 66 percent of its usual size, has strongly diminished since the winter of 1993, which researchers consider a result of extensive lake desiccation (Mascitti and Caziani 1997, p. 328). Other wetlands are in the process of drying out or shrinking as a result of drought, including Salar de Chalviri (Bolivia) (Ducks Unlimited 2007b, pp. 17–20); Lago Poopó (Bolivia) (Ducks Unlimited 2007b, p. 5); Lagunas Vilama (Argentina) (Caziani and Derlindati 2000, p. 122); and the TDPS wetland system (Bolivia, Chile, and Peru) (Jellison *et al.* 2004, p. 11). Lago Uru Uru (Bolivia) nearly dried out in 1983 but "recharged" in 1984 after flooding (Ducks Unlimited 2007b, p. 5). Laguna Salinas (Peru) nearly dried out in 1982–1983, but refilled during heavy rains in 1984. Every few years, Laguna Salinas and large parts of Parinacochas partially or totally dry out, making habitat unavailable (Arengo 2009, p. 77). Currently, the water fluctuates widely each year, nearly drying out from September through January (Ducks Unlimited 2007d, p. 25).

Andean flamingos are equally sensitive to increasing water levels. Andean flamingos generally occupy wetlands that are less than 3 ft (1 m) deep (Fjeldså and Krabbe 1990, p. 86; Mascitti and Casteñera 2006, p. 331). In 1998, breeding was reported for the first time at Laguna Brava. The same year, more than 7,000 non-breeding birds were reported 4 mi (7 km) away at Laguna de Mulas Muertas, which was not a normal feeding habitat. Bucher *et al.* (2000, p. 120) believe this shift in habitat use was prompted by El Niño, which caused increased water levels at their usual nesting and feeding sites across the border in Chile. Laguna de Mar Chiquita (Argentina) experienced a period of "exceptional flooding" beginning in 1977, such that nesting sites were inundated and the salinity of the water decreased (Ducks Unlimited 2007a, p. 21). Long known only as an overwintering site, breeding was recently reported at Mar Chiquita (Childress *et al.* 2005, p. 6).

When winter brings increased aridity and lower temperatures, higher altitude wetlands may dry out or freeze over. Under these conditions, Andean flamingos may move to lower altitudes (Blake 1977, p. 207; Boyle *et al.* 2004, pp. 570–571; Bucher 1992, p. 182; Caziani *et al.* 2006. p. 17; Caziani *et al.* 2007, pp. 279, 281; del Hoyo 1992, p. 519; Fjeldså and Krabbe 1990, p. 85; Hurlbert and Keith 1979, pp. 330; Mascitti and Bonaventura 2002, p. 360; Mascitti and Castañera 2006, p. 328). Research has recently shown that Andean flamingos use their habitat on a landscape level—beyond the Salar or Laguna in which they feed or breed—using wetland systems that provide a variety of habitat options from which to select optimal nesting and feeding sites (Caziani and Derlindati 2000, p. 122; Caziani *et al.* 2001, pp. 104, 110; Derlindati 2008, p. 10). Flamingo productivity is affected by climatic variability and its influence on water availability during the breeding season (Caziani *et al.* 2007, p. 284). Although the Andean flamingo can move between wetlands in response to annual climatic variability (Bucher *et al.* 2000, pp. 119–120; Mascitti 2001, p. 20; Mascitti and Bonaventura 2002, pp. 362–364), drastic water level changes can significantly alter the seasonal altitudinal movements of the Andean flamingo (Mascitti and Caziani 1997, pp. 324–326).

Summary of Factor E

The extent to which human disturbance has infiltrated Andean flamingo habitat and the ongoing activities that contribute to this disturbance could have long-lasting consequences on the population size and age structure, especially considering the species' unique life-history, breeding patterns, and recent years of low productivity (see Population Estimates: Breeding Success). Therefore, we find that human disturbance activities are threats to the continued existence of the Andean flamingo throughout its range.

Andean flamingo habitat throughout the Andes has experienced long-term

significant drought. The species' reliance upon shallow wetlands during its entire lifecycle makes it particularly vulnerable to threats that influence the amount and distribution of precipitation, runoff, or evapotranspiration. The drought causes the shallow wetlands upon which this species depends for its entire life cycle to dry out or to fluctuate widely from year to year, which disrupt the species' breeding and feeding cycles, and can strand entire nesting colonies when waters retract unexpectedly. These drought conditions are exacerbated by water extraction and pollution occurring throughout the species' habitat (Factor A). Reduced water levels can increase access to nesting sites, facilitating predation and hunting (Factors B and C). Therefore, we find drought to be a threat to the continued existence of the Andean flamingo throughout its range.

Status Determination for the Andean Flamingo

The Andean flamingo is colonial, feeding and breeding in flocks, and is the rarest of all six flamingo species worldwide. Experts consider that the more dispersed nature of the species at smaller nesting sites has inhibited reproduction in the species. The Andean flamingo underwent a severe population decline in the last few decades, from a conservative estimate of 50,000 to 100,000 in the early 1980s to a current estimate of 34,000. In the past 20 years, nesting sites and breeding has declined with increased habitat alteration (Factor A), overutilization (Factor B), disease and predation (Factor C), as well as increased human disturbance and an ongoing drought (Factor E). The Andean flamingo's entire life cycle relies on the availability of networks of shallow saline wetlands (salars and lagunas) at low, medium, and high altitudes that are characteristic throughout its range in Argentina, Bolivia, Chile, and Peru. Several manmade and natural factors are having a negative impact on the flamingo's persistence in the wild. These factors include mining activities and resultant pollution, increasing human population and water usage, hunting and egg collection, tourism, predation, human disturbance, and drought conditions. Mining occurs at many of the wetlands that the Andean flamingo depends upon for habitat. The threats from mining include direct habitat destruction, water pollution, water extraction, and disturbance (Factors A and E). Hunting and egg collecting reduce the number of individuals in the population and exacerbate the species' poor breeding success and low recruitment rate (Factor B). In combination with these habitat threats, the altiplano region is undergoing a long-term drought, which is impacting the availability and quality of wetlands for feeding, breeding, and overwintering (Factor E). Increased tourism at the wetlands is taxing limited water supplies, causing further water contamination from trash and sewage, and increasing habitat disturbance from human presence (Factors A and B). Infrastructure to support mining and tourism destroys and increases access to Andean flamingo habitats, facilitating hunting, egg collecting, and human influx, along with increased pollution, water use, and disturbance (Factors A, B, and E). Predation removes potentially reproductive adults from the breeding pool, disrupts mating pairs, and exacerbates the species' already poor breeding success and is facilitated by increased access to wetlands and the ongoing drought (Factors A, B, and E). Many wetlands within protected areas continue to undergo activities that destroy habitat or remove individuals from the population (including hunting and egg collecting), such that the regulatory mechanisms are inadequate to mitigate the threats to the species and its habitat (Factor D). The magnitude of the threats is exacerbated by the species' recent and drastic reduction in numbers, poor breeding success and recruitment, and the species' reliance on only a few wetlands for the majority of its reproductive output.

Section 3 of the Act defines an "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range" and a "threatened species" as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." Based on the immediate and ongoing significant threats to the Andean flamingo throughout its entire range, as described above, we determine that the Andean flamingo is in danger of extinction throughout all of its range. Therefore, on the basis of the best available scientific and commercial information, we are listing the Andean flamingo as an endangered species throughout all of its range.

II. Chilean woodstar (*Eulidia yarrellii*)

Species Description

The Chilean woodstar, endemic to Chile and Peru, is a small hummingbird in the Trochilidae family (BLI 2008). No larger than the size of most moths (Johnson 1967, p. 121), the Chilean woodstar is approximately 3 inches (in) (8 centimeters (cm)) in length and has a short black bill (BLI 2008; del Hoyo *et al.* 1999, p. 674). Males have iridescent olive-green upperparts, white underparts, and a bright violet-red throat (del Hoyo *et al.* 1999, p. 674; Fjeldså and Krabbe 1990, p. 296). Females also have iridescent olive-green upperparts; however, their underparts are buff (pale yellow-brown) and they do not have a brightly colored throat (Fjeldså and Krabbe 1990, p. 296). The male Chilean woodstar has a strongly forked tail, which is green in the center and blackish-brown on the ends, while the female's tail is unforked and has broad white tips (BLI 2008). It is also known as Yarrell's woodstar (del Hoyo *et al.* 1999, p. 647) and Picaflor Chico de Arica (Johnson 1967, p. 121). The species is locally known as "*Picaflor*" or "*Colibrí*" (Johnson 1967, p. 121).

Taxonomy

The species was first taxonomically described by Bourcier in 1847 and placed in Trochilidae as *Eulidia yarrellii* (BLI 2008). According to the CITES species database, the Chilean woodstar is also known by the synonyms *Myrtis yarrellii* and *Trochilus yarrellii* (UNEP–WCMC 2008b). Both CITES and BirdLife International recognize the species as *Eulidia yarrellii* (BLI 2008). Therefore, we accept the species as *Eulidia yarrellii,* which follows the Integrated Taxonomic Information System (ITIS 2008).

Habitat and Life History

Hummingbird habitat requirements are poorly understood (del Hoyo *et al.* 1999, p. 490). Many species are highly adaptable, adjusting to human-induced changes or expanding their ranges if food conditions are favorable. Others rapidly decline or are in danger of extinction due to environmental disturbances (del Hoyo *et al.* 1999, p. 490). The Chilean woodstar has generally been described as inhabiting riparian thickets, secondary growth, desert river valleys, arid scrub, agricultural lands, and gardens (Stattersfield *et al.* 1998, p. 233). Estades *et al.* (2007, p. 169) looked at a variety of habitat variables in relation to Chilean woodstar numbers and found that tree cover in September was the only variable that significantly affected their abundance. In areas with higher tree cover, more Chilean woodstars were observed (Estades *et al.* 2007, p. 169). During the rainy season, when woodstars have more resources to exploit at higher elevations, the population is more dispersed and vegetation variables do not appear to

limit the abundance of the species (Estades *et al.* 2007, p. 170).

As with all hummingbird species, the Chilean woodstar relies on nectar-producing flowers for food but also relies on insects as a source of protein (del Hoyo *et al.* 1999, p. 482; Estades *et al.* 2007, p. 169). The Chilean woodstar drinks nectar from the flowers of a variety of native trees such as *Geoffroea decorticans* (chañar) and *Schinus molle* (pimento), and ornamental plants such as *Lantana camara, Pelargonium* spp., and *Bougainvillea* sp. (Estades *et al.* 2007, p. 169). In addition, the species has been seen feeding from the flowers of several crops, including alfalfa, garlic, onion, and tomato (Estades *et al.* 2007, p. 169). Its small beak and body size enable it to exploit flowers with very small corollas (collective term for the petals of a flower) (Estades *et al.* 2007, p. 172).

Breeding activity likely takes place between August and September (del Hoyo *et al.* 1999, p. 674), although active nests have occasionally been found at other times of the year, suggesting that there may be some temporal variability (Estades *et al.* 2007, p. 169). Most nests have been located in olive trees (*Olea europaea*) at an average height of 7.5 ± 1.3 ft (2.3 ± 0.4 m), but a few nests were found in native shrubs and ornamental trees (Estades *et al.* 2007, p. 169).

A 2006 study by Estades and Aguirre (2006, p. 6) found Chilean woodstars nesting in only one location, a site in the Chaca area of the Vitor Valley that is less than 2.5 ac (1 ha) in size. The breeding site is an old olive grove that is lightly managed and is not sprayed with pesticides (Estades and Aguirre 2006, p. 6). The grove is surrounded by *Geoffroea decorticans* (chañares; Chilean Palo Verde) and citrus trees, which both flower in September (Estades and Aguirre 2006, p. 6). The location of the observed nests suggests to Estades and Aguirre (2006, p. 6) that the Chilean woodstar does not place its nest at the minimum distance from the food source, as would be expected according to the optimal foraging theory. Instead, it appears that Chilean woodstars build their nest at an intermediate distance of 164 ft (50 m) from nectar sources (flowers) (Estades and Aguirre 2006, p. 6). Estades and Aguirre (2006, p. 6) indicate that this may be a strategy the Chilean woodstar employs to avoid the presence of other hummingbirds around their nest. In addition, Estades and Aguirre (2006, p. 6) report that it appears the quality of this particular olive grove is enhanced by the nearby presence of sheep, whose wool is used by the Chilean woodstar to build its nest. As a result of this study, Estades and Aguirre (2006, p. 6) state that the reproductive habitat of the Chilean woodstar requires an adequate combination of nesting sites (olive and mango trees) and food sources (small flowers).

Historical Range and Distribution

Historical evidence suggests that although the Chilean woodstar had a limited distribution, it was locally abundant (Estades and Aguirre 2006, p. 2). However, beginning in the 1970s, the frequency of observations of this species appears to have declined recently to levels considered alarming by some ornithologists (Estades and Aguirre 2006, p. 2).

Current Range and Distribution

The Chilean woodstar is endemic to a few river valleys near the Pacific coast from Tacna, Peru, to northern Antofagasta, Chile (Collar *et al.* 1992, p. 530; del Hoyo *et al.* 1999, p. 674; Johnson 1967, p. 121). This area lies at the northern edge of the Atacama Desert, one of the driest places on Earth (Collar *et al.* 1992, p. 530). Current populations are only known to occur in the Vitor and Azapa valleys, in the Arica Department in extreme northern Chile (Estades *et al.* 2007, p. 168). There have been a few observations of this species in the town of Tacna, Peru (near the border of Chile), but these observations have been infrequent (Collar *et al.* 1992, p. 530) and there have been no records of the species there in the last 20 years (Jaramillo 2003, as cited in Estades *et al.* 2007, p. 164). At least some individuals appear to move seasonally to higher elevations to exploit seasonal food resources (Fjeldså and Krabbe 1990, p. 296). Estades *et al.* (2007, p. 170) hypothesize that these higher elevation valleys may provide some connectivity between the lower elevation valleys, otherwise isolated by the unvegetated expanses of the Atacama Desert.

In 1967, Johnson (1967, p. 121) described the Chilean woodstar as a "species of extremely limited range and very small total population." However, Johnson (1967, p. 121) also stated that it was the most abundant hummingbird in the Azapa Valley, where he and others counted "over a hundred hovering like a swarm of bees." In September 2003, using fixed-radius point counts and sampling an area larger than the presumed range, Estades *et al.* (2007, pp. 168–169) found the Chilean woodstar to be restricted to the Azapa and Vitor valleys of northern Chile, and to be the rarest hummingbird in the Azapa Valley (Estades *et al.* 2007, p. 170). Despite repeated searches, it was not found in the Lluta Valley (Estades *et al.* 2007, p. 168), where it was previously reported to breed (Fjeldså and Krabbe 1990, p. 296). A further study in the Azapa and Vitor valleys in 2006 found Chilean woodstars nesting in only one location, a site in the Chaca area of the Vitor Valley that is less than 2.5 ac (1 ha) in size (Estades and Aguirre 2006, p. 6). However, the species may be breeding in the Azapa valley, since survey work there in the past 4 years has found a few stable territories and detected a few juveniles (Estades 2009). Hummingbird nests are difficult to find and further survey work is needed to verify breeding in this area.

Population Estimates

In September 2003, the Chilean woodstar population was estimated to be 1,539 individuals (929–2,287; 90 percent confidence interval (CI)), with over 70 percent of the population found in the Azapa Valley (Estades *et al.* 2007, p. 168). In April 2004, the population was estimated to be 758 individuals (399–1,173; 90 percent CI), again with over 70 percent of the population found in the Azapa Valley (Estades *et al.* 2007, p. 168). Estades *et al.* (2007, p. 170) warn against interpreting their results as a population crash from 2003 to 2004, because the 2004 surveys were conducted in April, when food resources and populations were more dispersed (Estades *et al.* 2007, p. 170).

Further population estimates were conducted by Estades (2007, in litt.) in 2006 and 2007. In 2007, the population of Chilean woodstars was estimated to be 1,256 individuals (694 in the Azapa Valley and 562 in the Vitor Valley) (Estades 2007, in litt.). Estades (2007, in litt.) reports that, overall, the species declined between 2003 and 2007, even though the Chilean woodstar population did increase between 2006 and 2007. Estades (2007, in litt.) attributes the increase in the population of the species between 2006 and 2007 to an increase in the number of individuals in the Vitor Valley, while the number of Chilean woodstars in the Azapa Valley declined.

Conservation Status

The Chilean woodstar is listed as an "endangered and rare" species in Chile under Decree No. 151—Classification of Wild Species According to Their Conservation Status (ECOLEX 2007). The species is considered to be "Endangered" by IUCN, due to its very small range, with all viable populations apparently confined to remnant habitat patches in two desert river valleys (BLI

2008). These valleys are heavily cultivated, and the extent, area, and quality of suitable habitat are likely declining (BLI 2008).

Summary of Factors Affecting the Chilean Woodstar

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

The historical range of the Chilean woodstar has been severely altered with extensive planting of olive and citrus groves in the valleys of northern Chile and southern Peru (del Hoyo *et al.* 1999, p. 674). The native food plants of the species may have been drastically reduced when habitat for the species was converted to agriculture; now the species depends largely on introduced garden flowers as nectar sources (del Hoyo *et al.* 1999, p. 674). Although the Chilean woodstar is able to incorporate introduced plant species into its diet, the loss of some native species likely continues to be a limiting factor for the species (Estades *et al.* 2007, p. 172). As an example, Estades *et al.* (2007, p. 172) report that one of the most likely reasons for the disappearance of the Chilean woodstar from the Lluta Valley is the cutting of almost all the chañares (*Geoffroea decorticans*), which is considered one of the most important food sources for the species. Chañares are cleared by farmers who consider it an undesirable plant and an attractant to mice (Estades *et al.* 2007, p. 172).

In a study to estimate the population of the Chilean woodstar, Estades (2007, in litt.) found a decrease in the population of the Chilean woodstar in the Azapa Valley between 2006 and 2007. Estades (2007, in litt.) associates this decline with the substantial increase in agricultural development related to the cultivation of tomatoes in the Azapa Valley in recent years.

Chilean woodstars appear to rely primarily on introduced olive trees for nesting (Estades *et al.* 2007, p. 172). The species has most likely been forced to use orchards as nesting sites due to the paucity of native trees (Estades *et al.* 2007, p. 172). Although olive trees are not exposed to as many pesticides as other fruit trees in the region, the use of high-pressure spraying (of water) to control mold threatens the viability of nests and their contents in some areas (Estades 2009; Estades *et al.* 2007, p. 172). Because of the small size of the remaining population (see Factor E), the loss of even a few nests annually is a threat to the continued existence of the species.

Summary of Factor A

As a result of extensive agriculture in the river valleys where the Chilean woodstar occurs, most of its natural habitat is disappearing, requiring the species to rely mainly on artificial sources for feeding and nesting. Although the species is able to use introduced plants, the loss of important native food plants, such as chañares, is most likely a limiting factor for the Chilean woodstar. Due to the scarcity of native trees, the species seems to rely heavily on introduced olive trees for nesting. However, management practices currently used in olive groves adversely impact the species and its nests. Therefore, we find that habitat destruction is a threat to the continued existence of the Chilean woodstar throughout its range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

In 1987, the Chilean woodstar was listed in CITES Appendix II, which includes species that are not necessarily threatened with extinction, but may become so unless trade is subject to strict regulation to avoid utilization incompatible with the species' survival. International trade in specimens of Appendix-II species is authorized through permits or certificates under certain circumstances, including verification that trade will not be detrimental to the survival of the species in the wild and that the specimen was legally acquired (UNEP–WCMC 2008a).

Since its listing in 1987, there have been no CITES-permitted international transactions in the Chilean woodstar (Caldwell 2008, in litt.). Therefore, we believe that international trade is not a factor influencing the species' status in the wild. In addition, we are unaware of any other information currently available that indicates that hunting or overutilization of the Chilean woodstar for commercial, recreation, scientific, or education purposes has ever occurred. As such, we do not consider this factor to be a threat to the species.

C. Disease or Predation

We are not aware of any scientific or commercial information that indicate disease or predation poses a threat to this species. As a result, we are not considering disease or predation to be a contributing factor to the continued existence of the Chilean woodstar.

D. Inadequacy of Existing Regulatory Mechanisms

The Chilean woodstar is listed as an "endangered and rare" species in Chile under Decree No. 151—Classification of Wild Species According to Their Conservation Status (ECOLEX 2007). In 2006, it was also designated as a national monument under Decree No. 2—Declaring National Monuments of the Wild Fauna Huemul, Long-tailed Chinchilla, Short-tailed Chinchilla, Andean Condor, Chilean Woodstar, and Juan Fernandez Firecrown—which prohibits all hunting and capture of these species (ECOLEX 2006). However, this regulation is not necessary to reduce an existing threat to the Chilean woodstar because we do not consider hunting or collection (Factor B) to be a threat to the species.

The Chilean woodstar is listed in Appendix II of CITES (UNEP–WCMC 2008b). CITES is an international treaty among 175 nations, including Chile, Peru, and the United States, that entered into force in 1975 (UNEP–WCMC 2008a). Under this treaty, countries work together to ensure that international trade in animal and plant species is not detrimental to the survival of wild populations by regulating the import, export, re-export, and introduction from the sea of CITES-listed animal and plant species (USFWS 2008). As discussed under Factor B, we do not consider international trade to be a threat to the Chilean woodstar. Therefore, this international treaty does not reduce any current threats to the species. Any international trade that occurs in the future would be effectively regulated under CITES.

We are not aware of any regulatory mechanisms that effectively limit or restrict habitat destruction, or high-pressure spraying of olive trees with water to reduce mold, two of the threats to the Chilean woodstar (see Factor A).

As discussed under Factor E, pesticides are also a threat to the Chilean woodstar, and there are some regulations that limit or ban certain pesticides. For example, current regulations in Chile prohibit the importation, production, and application of DDT, Aldrin, Dieldrin, Chlordane, and Heptachlor (Altieri and Rojas 1999, p. 64). Despite such regulations, large-scale use of pesticides such as Parathion, Paraquat, Lindane, and pentachlorophenol—all severely restricted or even banned in Europe, Japan, and the United States—continues in Chile (Rozas 1995, as cited in Altieri and Rojas 1999, p. 64). Furthermore, international standards and quarantine requirements, imposed by countries importing Chilean fruits to limit quarantined insects, have acted to increase pesticide use in Chile (see Factor E) (Altieri and Rojas 1999, p. 63).

Summary of Factor D

We are not aware of any regulatory mechanisms that effectively limit or restrict habitat destruction, or high-pressure spraying of olive trees with water to reduce mold, two of the threats to the Chilean woodstar. Although there are some regulations in Chile that limit or ban certain pesticides, other kinds of pesticides are still widely used in Chile, especially by fruit growers. Therefore, we find that the existing regulatory mechanisms are inadequate to mitigate the current threats to the Chilean woodstar throughout its range.

E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

Pesticides: The use of Malathion, Dimethoate, and other chemicals to control the Mediterranean fruit fly (Ceratitis capitata) in the 1960s and early 1970s correlates with declines in Chilean woodstar abundance (Estades *et al.* 2007, pp. 171–172). Although Malathion is only slightly to moderately toxic to wild birds (Pascual 1994 and George *et al.* 1995, as cited in Estades *et al.* 2007, p. 171), the systemic insecticide Dimethoate is very toxic and is known to contaminate the nectar of flowers (Baker *et al.* 1980, as cited in Estades *et al.* 2007, p. 171). The Chilean government program to eradicate the Mediterranean fruit fly in the Arica-Azapa area has been reduced since the 1970s (Olalquiaga and Lobos 1993, as cited in Estades *et al.* 2007, p. 171), which likely has reduced this threat to Chilean woodstar (Estades *et al.* 2007, p. 171). Although the governmental pesticide applications for the eradication of the Mediterranean fruit fly may be declining, private farmers still rely on a heavy use of highly toxic chemicals to keep their crops pest-free (Salazar and Araya 2001, as cited in Estades *et al.* 2007, p. 171), and their use shows no signs of decline (Estades *et al.* 2007, p. 172).

As a result of international standards and quarantine requirements imposed by countries importing Chilean fruits, there is an overwhelming incentive for farmers to continue to extensively use chemical pest control (Altieri and Rojas 1999, p. 63). If the inspection of a shipment of Chilean fruits detects just one specimen of a quarantined insect pest, the result is the automatic rejection of the entire shipment of fruit (Altieri and Rojas 1999, p. 63). Therefore, Chilean fruit growers intensively spray their crops to completely eliminate all pests in order to avoid the risk of shipment rejection and its associated economic losses (Altieri and Rojas 1999, p. 63).

Estades *et al.* (2007, p. 170) found that significant amounts of pesticides are still being used, particularly in the Azapa Valley, and there is at least one recent case where the application of insecticides at a plant nursery resulted in the death of a female Chilean woodstar. Furthermore, in a study to estimate the population of the Chilean woodstar, Estades (2007, in litt.) found a decrease in the population of the species in the Azapa Valley between 2006 and 2007. Estades (2007, in litt.) associates this decline with the substantial increase in agricultural development, related to the cultivation of tomatoes, in the Azapa Valley in recent years. The cultivation of tomatoes in this area of Chile requires a high demand of pesticides, and thus represents a growing threat to the Chilean woodstar (Estades 2007, in litt.).

Competition from the Peruvian sheartail: Estades *et al.* (2007, p. 172) hypothesized that the Peruvian sheartail (*Thaumastura cora*), which has experienced rapid population increases within the range of the Chilean woodstar, is a strong competitor for food or space because: (1) These species have morphological similarities which, in hummingbirds, indicates they may require similar food resources; (2) there appears to be spatial segregation between the species; and (3) antagonistic interactions have been documented (Estades *et al.* 2007, p. 169). Because the sheartail is more aggressive than the Chilean woodstar, it is believed to displace the woodstar within its range (Estades *et al.* 2007, pp. 169, 172). In Azapa, Peruvian sheartails have occupied the lower parts of the valley where there is a large supply of flowers in residential areas year-round (Estades *et al.* 2007, p. 172). Chilean woodstars, on the other hand, are primarily located in the middle part of the valley where the dominant land use is agriculture (Estades *et al.* 2007, p. 172). As a result, the Chilean woodstar has a much higher risk of exposure to pesticides (Estades *et al.* 2007, p. 172). Because certain pesticides used within the range of the Chilean woodstar are known to cause mortality, increased exposure to these pesticides increases the species' risk of population decline and extinction.

In a study to estimate the population of the Chilean woodstar, Estades (2007, in litt.) found an increase in the population of the species in the Vitor Valley (Chaca-Codpa area) between 2006 and 2007. Estades (2007, in litt.) suggests that one of the reasons for the population increase in the Vitor Valley during this time period was due to the fact that no Peruvian sheartails were observed in Chaca. This observation supports the theory that Peruvian sheartails are a competitor of the Chilean woodstar (Estades *et al.* 2007, pp. 163, 172). In addition, the abundance of Chilean woodstar nests observed in the species' only known breeding site (in the Chaca area of the Vitor Valley) appears to be related to the absence of Peruvian sheartails in this location (Estades and Aguirre 2006, p. 6). Furthermore, the high abundance of Peruvian sheartails at Azapa could explain the absence of nesting by the Chilean woodstar at otherwise appropriate sites, such as the Azapa Valley (Estades and Aguirre 2006, p. 6). During the 2008 breeding season, several Peruvian sheartails were observed at at least two Chilean woodstar nests in the Chaca area, which is of concern since this area has been the primary breeding area for the woodstar (Estades 2009).

Reproduction: Another study in the Azapa and Vitor valleys in 2006 found Chilean woodstars nesting in only one location, a site in the Chaca area of the Vitor Valley that is less than 2.5 ac (1 ha) in size (Estades and Aguirre 2006, p. 6). Of the 19 nests that were monitored, 12 failed; the cause of these nest failures is unknown (Estades and Aguirre 2006, p. 8). The daily nest failure rate was 3.21 percent, which is higher than has been observed in other hummingbird species (Estades and Aguirre 2006, p. 8). The probability of nest success was 23.8 percent, which is also higher than has been observed for other hummingbird species (Estades and Aguirre 2006, p. 8). Estades and Aguirre (2006, p. 8) note that the method used to calculate both of these values for other hummingbirds (by Baltosser 1986, as cited in Estades and Aguirre 2006, p. 8) is not exactly the same as the method used in this study. Although the values of reproductive success are within normal range, the high percentage of nest failures is troubling for a species that has such a small population size (Estades and Aguirre 2006, p. 8).

The loss of hatchlings, probably due to a lack of space in the nest itself, also indicates that recruitment of the Chilean woodstar is low (Estades and Aguirre 2006, pp. 8, 10). If you take into account that the flowering period for chañares and citrus is relatively short (a maximum of two months), the possibility of Chilean woodstars producing a second clutch in the spring is almost zero (Estades and Aguirre 2006, p. 10). Without a second nesting period, the Chilean woodstar is not able to compensate for a loss of its first, and

most likely only, clutch (Estades and Aguirre 2006, p. 10). All data suggest that the recruitment capability of the Chilean woodstar is low and that, currently, the majority of reproduction is taking place only in the Vitor Valley (Estades and Aguirre 2006, p. 10).

Small Population Size and Restricted Range: The Chilean woodstar has experienced a population decline since the 1960s and now consists of less than 2,000 individuals distributed within two valleys (Estades *et al.* 2007, p. 170). Species tend to have a higher risk of extinction if they occupy a small geographic range, occur at low density, occupy a high trophic level, and exhibit low reproductive rates (Purvis *et al.* 2000, p. 1949). Small populations are more affected by demographic stochasticity, local catastrophes, and inbreeding (Pimm *et al.* 1988, pp. 757, 773–775). The small, declining population makes the species vulnerable to loss of genetic variation due to inbreeding depression and genetic drift. This, in turn, compromises a species' ability to adapt genetically to changing environments (Frankham 1996, p. 1507) and reduces fitness, and increases extinction risk (Reed and Frankham 2003, pp. 233–234).

Summary of Factor E

Other natural or manmade factors affecting the continued existence of the Chilean woodstar include extensive use of pesticides by farmers and competition from the Peruvian sheartail. These threats have been associated with the decline in the population of the species and the lack of nest sites in the Azapa Valley. Because the Chilean woodstar is currently breeding in only one site (in the Chaca area of the Vitor Valley) and has a low recruitment rate, restricted range, and a small population size, any threats to the species are further magnified. Therefore, we find that other natural or manmade factors are a threat to the continued existence of the Chilean woodstar throughout its range.

Status Determination for the Chilean Woodstar

We have carefully assessed the best available scientific and commercial information regarding the past, present, and potential future threats faced by the Chilean woodstar. The species is currently at risk throughout all of its range due to a number of immediate and ongoing threats. The Chilean woodstar is restricted to two river valleys, where there has been extensive modification of its primary habitat. It is threatened by agricultural practices, in particular the use of pesticides and, to a lesser extent, high-pressure spraying of olive trees to remove mold, as well as competition from the more aggressive Peruvian sheartail. The magnitude of these threats is exacerbated by the species' restricted range, only one known breeding site, low recruitment rate, and extremely small population size. An insect outbreak causing increased use of toxic pesticides in agricultural fields, a series of catastrophic events, or other detrimental interactions between environmental and demographic factors could result in the rapid extinction of the Chilean woodstar.

Section 3 of the Act defines an "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range" and a "threatened species" as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." Based on the immediate and ongoing significant threats to the Chilean woodstar throughout its entire range, as described above, we determine that the Chilean woodstar is in danger of extinction throughout all of its range. Therefore, on the basis of the best available scientific and commercial information, we are listing the Chilean woodstar as an endangered species throughout all of its range.

III. St. Lucia forest thrush (*Cichlhermina lherminieri sanctaeluciae*)

Species Description

The St. Lucia forest thrush (*Cichlhermina lherminieri sanctaeluciae*) (also referred to as "thrush") is a subspecies of the forest thrush (*C. lherminieri*) in the family Turdidae. It is a medium-sized bird, approximately 10 inches (in) (25 to 27 centimeters (cm)) in length (BLI 2000). This subspecies has all dark upperparts; is brownish below with white spots on the breast, flanks, and upper belly; and has a white lower belly. It has yellow legs and bill, and bare skin around the eye (BLI 2000).

Taxonomy

This subspecies was first taxonomically described by P. L. Sclater in 1880 (del Hoyo *et al.* 2005, p. 681).

Habitat and Life History

The St. Lucia forest thrush occupies mid- and high-altitude primary and secondary moist forest habitat (Keith 1997, p. 105). The thrush feeds on insects and berries from ground level to the forest canopy (del Hoyo *et al.* 2005, p. 681; Raffaelle 1998, p. 381). It previously gathered in large numbers in autumn to feed on berries (del Hoyo *et al.* 2005, p. 681). The thrush breeds in April and May and builds a cup-shaped nest placed not far above the ground in a bush or tree (del Hoyo *et al.* 2005, p. 681; Raffaelle 1998, p. 381). Clutch size ranges from two to three eggs, which are blue-green in color (del Hoyo *et al.* 2005, p. 681).

Historical Range and Distribution

Although we are unaware of any specific information on the historical range and distribution of the St. Lucia forest thrush, we assume that this subspecies has always been found only on the island of St. Lucia.

Current Range and Distribution

The entire species of forest thrush is known from Montserrat, Guadeloupe, Dominica, and St. Lucia. The St. Lucia forest thrush is endemic to the island of St. Lucia in the West Indies (del Hoyo *et al.* 2005, p. 681). St. Lucia is an island in the Caribbean, between the Caribbean Sea and the North Atlantic Ocean, and is 238 square miles (m^2) (616 square kilometers (km^2)) in area (CIA World Factbook 2008).

Population Estimates

This subspecies was considered numerous in the late 1800s (Semper 1872, as cited in Keith 1997, p. 105), although we could find no historical accounts of population size of this subspecies. The current population status of the thrush is unknown, but recent sightings of this subspecies are rare, with only five confirmed sightings on the island over the last few years (John 2009; Dornelly 2007, in litt.). These sightings consist of one bird in the St. Lucia Nature Reserve near the community of De Chassin in the north part of the island, and four individuals along the De Cartiers Trail in the Quilesse Forest Reserve on the south part of the island (Dornelly 2007, in litt.). A survey was conducted in 2007 to try to estimate the populations of various rare birds on the island of St. Lucia, including the thrush (Dornelly 2007, in litt.). However, no thrushes were observed during the study period (Dornelly 2007, in litt.).

Conservation Status

The entire species of forest thrush (*Cichlhermina lherminieri*) is classified as "Vulnerable" by IUCN, due to human-induced deforestation and introduced predators (BLI 2008b).

Summary of Factors Affecting the St. Lucia Forest Thrush

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

The habitat of the St. Lucia forest thrush consists of mid- and high-altitude primary and secondary moist forests (Keith 1997, p. 105). Consistent with previous accounts, the most recent sightings of the thrush were within this mid- to high-elevation moist forest habitat, where in June and August of 2007, respectively, St. Lucia Forestry Department staff sighted four birds in one location along the Des Cartiers Trail in the south of the island, and one bird in De Chassin in the north of the island (Dornelly 2007, in litt.).

As of 2007, natural forest occupied approximately 29,870 ac (12,088 ha) on the island of St. Lucia, 77 percent of which (23,000 ac (9,308 ha)) was within forest reserves and 23 percent (6,870 ac (2,780 ha)) was on private lands (John 2009; Joint Annual Report (JAR) 2004, p. 42). The St. Lucia Department of Forestry considers habitat quality within the Forest Reserves to be high, but considers the habitat quality on private lands to be "less," since the Department has little control over management of these private lands and the forest cover can be removed for alternate land use or development (Dornelly 2007, in litt.; John 2009). In 2004, 633 ac (256 ha) of plantation forest existed within the forest reserves, consisting of three main timber tree species, and an additional 615 ac (249 ha) of plantation forest existed on private lands (JAR 2004, p. 42), but there is no information to suggest that the thrush utilizes plantation forest habitat.

Historically, St. Lucia's policy that allowed open access to "Common Property resources," combined with the country's high demand for agricultural land, led to large- scale deforestation (GOSL 1993, as cited in John 2000, p. 3), which reduced the thrush's habitat, resulting in a rapid population decline of this subspecies (IUCN 2008). The widespread deforestation that continues to this day suggests that population numbers continue to decline as a result of this impact. A potential impact of habitat destruction is exemplified by the Grand Cayman thrush (*Turdus ravidus*), a species closely related to the St. Lucia forest thrush, which went extinct as its habitat on the island was progressively cleared (Johnston 1969, as cited in BLI 2008a).

In the 1980s, deforestation on St. Lucia was estimated at 1.9 percent per year due to banana cultivation. Although the banana industry has faltered since that time (GOSL 1993, as cited in John 2000, p. 3), according to the World Bank (2005, p. 1), farmers in St. Lucia have continued to clear forests for cultivation, moving to higher and steeper land, primarily on private land. The government has encouraged this deforestation by constructing roads into these remote areas, which further reduces forest lands. Degradation of the hillside environment puts the more productive lowlands at risk, and hurricanes and tropical storms accelerate the degradation process (World Bank 2005, p. 1).

As of 2004, 28.5 percent of the land on St. Lucia was used for "intensive farming," and 26.3 percent was for "mixed" use purposes (JAR 2004, p. 41). According to St. Lucia's 2007 Economic and Social Review (p. 3), although the banana industry was negatively impacted by the passage of Hurricane Dean in August, the overall outturn in agriculture more than compensated for the banana decline, with a 7.6 percent increase in "nontraditional crops." This is a strong indication that increasing agriculture continues to put pressure on St. Lucia's forest resources. Aside from agriculture, in the 21st century, construction activities related to tourism (hotels and golf courses) and residential housing with accompanying access road networks has been a leading cause of deforestation on St. Lucia, particularly on private land (John 2009; John 2000, pp. 3, 4).

Even within St. Lucia's Forest Reserves, the land is not protected to such an extent that it is preserved in its natural condition. According to St. Lucia's "Forest, Soil, and Water Conservation Ordinance 1946/1983," with permission of the Forestry Department, one may "injure, cut, fell, convert, remove, or harvest any tree or parts thereof." Although it is illegal to occupy Forest Reserves for the purposes of cultivation, squatting, or pasturing livestock (St. Lucia Forestry Department n.d.), enforcement of these activities is questionable, given that as of the year 2000, squatters occupied 247 ac (100 ha) of area within forest reserves (John 2000, p. 3). These squatters are considered to be under the "taungya" forest mangagement system and the land they occupy remains under the government control as Forest Reserve (John 2009). As of the year 2000, 4.5 miles (7.2 km) of roads existed within the forest reserves, providing access to forest resources within the reserves. Typical uses of forest resources include fuelwood collection for heating and cooking purposes, as well as traditional use of non-wood forest products. Certain species of forest trees are used for production of brooms, canoes, and incense, while the bark of other tree species are used to produce fermented drinks, and liannes are used in the craft industry (John 2000, pp. 6, 7). Removal of these forest products reduces either the quality or the availability of nesting, feeding, and breeding habitat of the thrush, thereby potentially reducing population numbers and the reproductive success of breeding birds.

Summary of Factor A

Both historical and current information suggests that this species is restricted to natural forests on the island, which, based on recent data, have been reduced to approximately 29,870 ac (12,088 ha) on the island. A large percentage of the remaining natural forest that occurs on private lands in St. Lucia (23 percent) is subject to ongoing loss from timber harvest, construction activities related to residential housing and tourism, road development, and to a lesser extent, conversion of forest lands to agriculture. These ongoing activities result in destruction of the limited habitat available for the thrush, which has historically been attributed to a rapid decline in this subspecies' population numbers. Although to a lesser extent than on private lands, the forests within St. Lucia's forest reserves (77 percent of the remaining forest) are also subject to destruction and modification from activities such as timber removal, fuelwood gathering, and removal of non-wood forest products for traditional use, activities which destroy and degrade the thrush's habitat. Therefore, we find that the ongoing destruction and modification of the thrush's habitat is a threat to the continued existence of the St. Lucia forest thrush throughout its range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

We are not aware of any scientific or commercial information that indicates overutilization of the St. Lucia forest thrush for commercial, recreational, scientific, or educational purposes currently poses a threat to this subspecies. As a result, we are not considering overutilization to be a contributing factor to the continued existence of the St. Lucia forest thrush.

C. Disease or Predation

Disease: We are not aware of any scientific or commercial information that indicates that disease poses a threat to this subspecies. As a result, we are

not considering disease to be a contributing factor to the continued existence of the St. Lucia forest thrush.

Predation: The St. Lucia forest thrush is suspected to be impacted by predation from an introduced mongoose (Raffaelle *et al.* 1998, p. 381). The Asian mongoose (*Herpestes javanicus*) was introduced to the island of St. Lucia in the early 1900s (Hoagland *et al.* 1989, p. 624) and is considered an invasive species. Mongoose have been introduced to many island chains for the purpose of controlling small rodents; however, their diet is not restricted to rodents; mongoose are known to eat birds as well. Morley and Winder (2007, p. 1) found that in the Fiji islands, some bird species were primarily associated with those islands that were free of mongoose. Any effects of mongoose introduction detected, however, were historical, as mongoose had been on these islands for at least 20 years prior to their study. Bird assemblages on islands where mongoose had been introduced were (1) dominated by introduced bird species that are relatively unaffected by predation, or (2) native arboreal species that avoid predation, as mongoose rarely venture up into the forest canopy. Some researchers have suggested that ground-nesting bird populations have established a predator-prey equilibrium with mongooses in the Caribbean (Westermann 1953, as cited in Hays and Conant 2006, p. 7). Although the thrush is not known as a ground nesting bird, it is reported to nest in shrubs and trees near the forest floor. On St. Lucia, the mongoose and other introduced predators, such as birds and cats, have contributed to the decline of another native bird species, the White-breasted thrasher (*Ramphocinclus brachurus*) (Collar *et al.* 1992, p. 824). The degree to which mongoose are responsible for the decline of bird species is often hard to assess, because of exacerbating factors such as the introduction of other species, such as rats and cats, which often have impacts to bird populations as well. Therefore, we do not have enough information to assess whether predation by an introduced mongoose is a significant threat to the St. Lucia forest thrush. Other possible predators include the St. Lucia boa constrictor (*Constrictor constrictor orophias*), Fer de Lance (*Bothrops caribbaeus*), opossum (*Didelphis marsupialis*) and rat (*Rattus rattus*) but we do not have enough information to assess whether predation by these species is a significant threat (John 2009).

Summary of Factor C

We are not aware of any scientific or commercial information that indicate that disease or predation currently poses a threat to this subspecies. Although the St. Lucia forest thrush is thought to be impacted by predation from an introduced mongoose, we do not have any data to show that mongoose predation is a current threat to the thrush. As a result, we are not considering disease or predation to be a contributing factor to the continued existence of the St. Lucia forest thrush.

D. Inadequacy of Existing Regulatory Mechanisms

The St. Lucia forest thrush is a "protected wildlife" species under Schedule 1 of the Wildlife Protection Act (WPA) of 1980, which has prohibited hunting of this subspecies since 1980 (ECOLEX n.d.(b)). In addition, the WPA prohibits taking, damaging or destroying of eggs or young, or the damage of a nest of "protected wildlife" species (ECOLEX n.d.(b)). Where habitat for this species occurs within Forest Reserves or Protected Forests, it is protected from harvest without approval by the Forestry Department under the Forest, Soil and Water Conservation Ordinance Act of 1946, amended in 1983 (ECOLEX n.d.(a)). However, we do not consider overutilization (Factor B) to be a current threat to the St. Lucia forest thrush, so these laws do not address any of the threats to this subspecies.

The Forest, Soil and Water Conservation Ordinance Act of 1946, amended in 1983, authorizes the St. Lucia Minister of Agriculture to establish Forest Reserves on government land and Protected Forests on private lands (John 2000, p. 7). Habitat in Forest Reserves and Protected Forests is conserved primarily for the purpose of protecting watershed processes and preventing soil erosion. No legal commercial timber harvest occurs on these lands. However, fuelwood collecting, removal of non-wood forest products for traditional use, and timber removal (with permission of the Forestry Department) still occur in some Forest Reserves. Where suitable habitat for the thrush exists in Forest Reserves, it is assumed to be of high quality (Dornelly 2007, in litt.). However, small illegal homesteads occur on approximately 247 ac (100 ha) of the Forest Reserves, and residents of these homesteads utilize the timber and other forest resources, such as fuelwood, in the surrounding areas (John 2000, p. 3).

Timber harvest on private lands other than Protected Forests is not regulated in St. Lucia. As discussed above under Factor A, deforestation on private lands as a result of timber harvest, conversion of forest lands to agriculture, construction activities related to the tourism industry and residential development, and road development is ongoing. It is not known how much of the private natural forest habitat on the island is occupied by the St. Lucia forest thrush. However, based on the localities of the few recent confirmed sightings of this subspecies, and the proportion (23 percent) of natural forest that occurs on private lands, the St. Lucia forest thrush likely inhabits at least some of the private lands on the island.

Summary of Factor D

St. Lucia has developed numerous laws and regulations to manage wildlife and forest resources on the island. However, these laws do not adequately protect the habitat of the St. Lucia forest thrush from destruction or modification. Suitable thrush habitat within Forest Reserves is provided some level of protection from existing laws designed to protect watershed processes and prevent soil erosion. However, these laws do not adequately protect the habitat of this subspecies because they allow noncommercial uses of forest resources (including nest trees) to continue. Natural forest habitat on private lands is unregulated, and although the rate of habitat destruction and modification has likely decreased since the 1980s, conversion of forest land to agriculture and timber harvest still continue. As a result of the lack of regulatory protection of the natural forest habitats on private lands and the limited protection of Forest Reserves, we find that the existing regulatory mechanisms are inadequate to mitigate the current threats to the St. Lucia forest thrush throughout its range.

E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

Bare-eyed Robin: Competition with the bare-eyed robin (*Turdus nudigenis*), which colonized the island in the 1950s, has been identified as a factor impacting this subspecies (Raffaelle *et al.* 1998, p. 381). However, we do not have enough information to assess whether competition with the bare-eyed robin is a significant threat to the St. Lucia forest thrush.

Shiny Cowbird: Brood parasitism by the shiny cowbird (*Molothrus bonarientsis*), which colonized the island in 1931, is also suspected as a factor impacting this subspecies (Raffaelle *et al.* 1998, p. 381). The shiny cowbird is a known "brood parasite"

(*i.e.*, they lay their eggs in the nests of other birds and do not provide any parental care for their own offspring). When the eggs of the brood parasite hatch, these chicks often push out the eggs or chicks of the host birds and are raised by the host species. Parental care that the host birds provide to the young parasites is care denied to their own young. This often has a detrimental effect on the reproductive success of the hosts, reducing population growth. The shiny cowbird is an extreme host generalist; its eggs have been found in the nests of over 200 species of birds (Friedmann and Kiff 1985 and Mason 1986, as cited in Cruz *et al.* 1989, p. 524). Shiny cowbirds are known to parasitize other bird species nests on St. Lucia (Cruz *et al.* 1989, p. 527). Many of the documented host species have not evolved effective defense or counter-defense mechanisms during the 70+ years the cowbird has occupied the island (Post *et al.* 1990, p. 461). Although brood parasitism by the shiny cowbird has the potential to impact the thrush, we could find no documented cases of brood parasitism on the St. Lucia forest thrush.

Small Population Size: The presumed small size of the St. Lucia forest thrush population, based on only five confirmed sightings of the subspecies in the last few years (John 2009; Dornelly 2007, in litt.), makes this subspecies vulnerable to any of several risks, including inbreeding depression, loss of genetic variation, and accumulation of new mutations. Inbreeding can have individual or population-level consequences either by increasing the phenotypic expression (the outward appearance or observable structure, function or behavior of a living organism) of recessive, deleterious alleles or by reducing the overall fitness of individuals in the population (Charlesworth and Charlesworth 1987, p. 231; Shaffer 1981, p. 131). Small, isolated populations of wildlife species are also susceptible to demographic problems (Shaffer 1981, p. 131), which may include reduced reproductive success of individuals and chance disequilibrium of sex ratios. Once a population is reduced below a certain number of individuals, it tends to rapidly decline towards extinction (Franklin 1980, pp. 147–148; Gilpin and Soulé 1986, p. 25; Holsinger 2000, pp. 64–65; Soulé 1987, p. 181).

A general approximation of minimum viable population size is the 50/500 rule (Shaffer 1981, p. 133; Soulé 1980, pp. 160–162). This rule states that an effective population (N_e) of 50 individuals is the minimum size required to avoid imminent risks from inbreeding. N_e represents the number of animals in a population that actually contribute to reproduction, and is often much smaller than the census, or total number of individuals in the population (N). Furthermore, the rule states that the long-term fitness of a population requires an N_e of at least 500 individuals, so that it will not lose its genetic diversity over time and will maintain an enhanced capacity to adapt to changing conditions. Therefore, an analysis of the fitness of this population would be a good indicator of the subspecies' overall survivability.

Although the current population status of the St. Lucia forest thrush is unknown, we presume the population of the thrush is small, since recent sightings of this subspecies are rare, with only five confirmed sightings on the island over the last few years (Dornelly 2007, in litt.). Even though a survey was conducted in 2007 to try to estimate the populations of various rare birds on the island of St. Lucia including the thrush, no thrushes were observed during the study period (Dornelly 2007, in litt.). As a result, we presume the size of the St. Lucia forest thrush population falls below the minimum effective population size required to avoid risks from inbreeding (N_e = 50 individuals). We also presume the population size of this subspecies falls below the upper threshold (N_e = 500 individuals) required for long-term fitness of a population that will not lose its genetic diversity over time and will maintain an enhanced capacity to adapt to changing conditions. As such, we currently consider the St. Lucia forest thrush to be at risk due to lack of near- and long-term viability.

Stochastic Events: The St. Lucia forest thrush's small population size makes this subspecies particularly vulnerable to the threat of adverse random, naturally occurring events (e.g., volcanic activity, tropical storms and hurricanes) that could destroy individuals and their habitat. St. Lucia is a geologically active area, resulting in a significant risk of catastrophic natural events. It is subject to volcanic activity and hurricanes (CIA World Factbook 2008).

St. Lucia is a volcanic island (University of the West Indies Seismic Research Centre n.d.(a)). Historically, there have been no magmatic eruptions on St. Lucia (i.e., eruptions involving the explosive ejection of magma) (University of the West Indies Seismic Research Centre n.d.(b)). However, there have been several minor phreatic (steam) explosions in the Sulphur Springs area of St. Lucia (University of the West Indies Seismic Research Centre n.d.(b)), "which spread a thin layer of cinders (ash) far and wide" (Lefort de Latour 1787, as cited in University of the West Indies Seismic Research Centre n.d.(b)). The occurrence of occasional swarms (a sequence of many earthquakes striking in a relatively short period of time and may last for days, weeks, or even months) of shallow earthquakes together with the vigorous hot spring activity in southern St. Lucia indicate that this area is still potentially active and the island can therefore expect volcanic eruptions in the future (University of the West Indies Seismic Research Centre n.d.(b)). On Montserrat, where another subspecies of the forest thrush (*Cichlherminia lherminieri lawrencii*) is found, volcanic activity caused a reduction in the range of the subspecies by two-thirds (in 1995–1997) (G. Hilton in litt., as cited in BLI 2008b), and in 2001, heavy ash falls resulted in loss of habitat (Continga 2002, as cited in BLI 2008b). Because of the similarity in ecology, taxonomy, and habitat requirements between the subspecies on Montserrat and the St. Lucia forest thrush, volcanic activity on St. Lucia could have similar effects on the St. Lucia forest thrush population.

Tropical storms and hurricanes occur in the Caribbean, and can have severe impacts on terrestrial ecosystems on small islands. A primary impact of forest habitats is the damage caused to trees by high winds. Trees are often blown over or sustain damage to trunks and limbs. These types of impacts can result in a major habitat loss to the St. Lucia forest thrush. In addition, there is often damage to soil productivity due to landslides and excess soil erosion (John 2000, p. 19). St. Lucia has experienced an increase in the number of hurricanes and severe tropical storms over the last 30 years. After hurricane Allen in 1980, at least 55 percent of all dominant tree species on the island had broken branches and many had lost large portions of their crowns (Whitman 1980, as cited in John 2000, p. 18). The indirect effects occur in the aftermath of the storm when species experience loss of food supplies and foraging substrates, loss of nests, loss of nest sites (trees) and roost sites (John 2000, p. 20). Moreover, these indirect effects are likely to increase their vulnerability to predation. With hurricanes and tropical storms, species are also exposed to the strong winds which can displace individuals off of the island into the surrounding open ocean environment (John 2000, p. 20). Some of these displaced birds are likely blown far out to sea, and may not be able to make it back to land in their weakened state. In general, the most vulnerable terrestrial wildlife

populations have a diet of nectar, fruit, or seeds; nest, roost or forage on large old trees; require a closed canopy forest; have special microclimate requirements; or live in habitat where the vegetation has a slow recovery rate (John 2000, p. 20). Small populations with these traits are at a greater risk to hurricane induced extinction, particularly if they exist in small isolated habitat fragments (John 2000, p. 20).

Summary of Factor E

We presume the population of the St. Lucia forest thrush is small since there have only been five confirmed sightings of the subspecies in the last few years. The thrush's small population size makes this subspecies particularly vulnerable to the threat of adverse random, naturally occurring events (e.g., volcanic activity, tropical storms, and hurricanes) that could destroy individuals and their habitat. The occurrence of occasional swarms of shallow earthquakes, along with vigorous hot spring activity, indicates that St. Lucia could still be volcanically active, and future volcanic eruptions are expected. Tropical storms and hurricanes are naturally occurring events in the Caribbean; however, the frequency of these events has increased over the last 30 years. These high-intensity events damage forest habitats, which are currently very restricted (approximately 29,870 ac (12,088 ha)) on the island due to timber harvest and agricultural conversions. It can take many years for forested areas to fully recover from the damage caused by tropical storms and hurricanes. Therefore, we find that the subspecies' presumed small population size and restricted range due to deforestation, and the increase in naturally occurring events that damage the thrush's habitat, are a threat to the continued existence of the St. Lucia forest thrush throughout its range.

Status Determination for the St. Lucia Forest Thrush

We have carefully assessed the best available scientific and commercial information regarding the past, present and potential future threats faced by the St. Lucia forest thrush. The subspecies is currently at risk throughout all of its range due to ongoing threats of habitat destruction and modification (Factor A), lack of near- and long-term viability associated with the thrush's presumed small population size (Factor E), and random, naturally occurring events such as volcanic activity, tropical storms, and hurricanes (Factor E).

The St. Lucia forest thrush is presumed to be rare based on the limited availability of suitable habitat and the fact that there have been only a few confirmed sightings of this subspecies over the last several years. The primary factor impacting the continued existence of the thrush is habitat loss and degradation, as a result of deforestation from timber harvest and agricultural conversions. Although 77 percent of the natural forests remaining on St. Lucia (as of 2004) is partially protected through establishment of a network of Forest Reserves, these forests are still subject to destruction and modification from activities such as timber removal, fuelwood collecting, and removal of non-wood forest products for traditional use. Approximately 23 percent of the natural forest habitats on which this subspecies depends occur on private lands. Deforestation on private lands is an ongoing threat to the St. Lucia forest thrush, due to the lack of regulatory protection of natural forests on private lands and the continued loss of these forests through timber harvest, conversions to agriculture, construction activities, and road development.

The island of St. Lucia is a geologically active area, resulting in a significant risk of catastrophic natural events. The thrush's presumed small population size makes this subspecies particularly vulnerable to the threat of adverse random, naturally occurring events such as volcanic activity, tropical storms, and hurricanes that could destroy individuals and their habitat.

Section 3 of the Act defines an "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range" and a "threatened species" as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." Based on the immediate and ongoing significant threats to the St. Lucia forest thrush throughout its entire range, as described above, we determine that the St. Lucia forest thrush is in danger of extinction throughout all of its range. Therefore, on the basis of the best available scientific and commercial information, we are listing St. Lucia forest thrush as an endangered species throughout all of its range.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and encourages and results in conservation actions by Federal governments, private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions within the United States or on the high seas with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. However, given that the Andean flamingo, Chilean woodstar, and St. Lucia forest thrush are not native to the United States, no critical habitat is being designated in this final rule.

Section 8(a) of the Act authorizes limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered and threatened species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species and to provide assistance for such programs in the form of personnel and the training of personnel.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. As such, these prohibitions are applicable to the Andean flamingo, Chilean woodstar, and St. Lucia forest thrush. These prohibitions, under 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to "take" (take includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt any of these) within the United States or upon the high seas, import or export, deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity or to sell or offer for sale in interstate or foreign commerce, any endangered wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species, and at 17.32 for threatened species. With regard to endangered wildlife, a permit must be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species,

and for incidental take in connection with otherwise lawful activities.

Required Determinations

National Environmental Policy Act (NEPA)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations adopted under section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this final rule is available on the Internet at *http://www.regulations.gov* or upon request from the Branch of Listing, Endangered Species Program, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT** section).

Author

The primary author of this final rule is staff of the Branch of Listing, Endangered Species Program, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding a new entry for "Flamingo, Andean," "Thrush, St. Lucia forest," and "Woodstar, Chilean" in alphabetical order under "BIRDS" to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
BIRDS							
*	*	*	*	*	*	*	
Flamingo, Andean	*Phoenicoparrus andinus*	Argentina, Bolivia, Chile, and Peru.	Entire	E	.....	NA	NA
*	*	*	*	*	*	*	
Thrush, St. Lucia forest	*Cichlherminia lherminieri sanctaeluciae.*	West Indies—St. Lucia	Entire	E	.....	NA	NA
*	*	*	*	*	*	*	
Woodstar, Chilean	*Eulidia yarrellii*	Chile and Peru	Entire	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: August 3, 2010.

Jeffrey L. Underwood,

Acing Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010–19965 Filed 8–16–10; 8:45 am]

BILLING CODE 4310–55–P

Reader Aids

Federal Register

Vol. 75, No. 158

Tuesday, August 17, 2010

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, AUGUST

45047–45474 2
45475–46836 3
46837–47170 4
47171–47432 5
47433–47698 6
47699–48272 9
48273–48548 10
48549–48856 11
48857–49350 12
49351–49812 13
49813–50682 16
50683–50842 17

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8544 46835
8545 48855
Administrative Orders:
Memorandums:
Memo. of August 3, 2010 47433
Notices:
Notice of August 12, 2010 50681

5 CFR

532 49351
2416 48273
Proposed Rules:
532 45557

7 CFR

652 48273
3022 49357
Proposed Rules:
357 46859
989 47490

8 CFR

214 47699
217 47701
274a 47699

9 CFR

Proposed Rules:
307 47726
381 47726
590 47726

10 CFR

72 49813
Proposed Rules:
37 47494

11 CFR

9405 49813
9407 49813
9409 49813
9410 49813
9420 49813
9428 49813
Proposed Rules:
9428 47729

12 CFR

205 50683
226 46837
328 49363
330 49363
347 49363
701 47171
707 47173
Proposed Rules:
1 49423
16 49423
28 49423
741 47236
750 47236
908 49314
1209 49314
1213 47495
1780 49314

13 CFR

121 48549
134 47435

14 CFR

21 50688
25 ..... 46838, 46840, 47176, 49815
29 50688
39 ..... 47180, 47182, 47184, 47190, 47194, 47197, 47199, 47201, 47203, 47207, 47208, 49365, 49368, 49370, 49375, 49377
71 ..... 47709, 48550, 48551, 50694
91 ..... 48552, 48857
97 ..... 45047, 45049
Proposed Rules:
25 49865
33 49865
39 ..... 45075, 45558, 45560, 46861, 46864, 46868, 46873, 47242, 47245, 47247, 47249, 47734, 48281, 48615, 48617, 48618, 48620, 48623
71 ..... 47252, 47736, 47737, 49866, 49868
234 45562
244 45562
250 45562
259 45562
399 45562

15 CFR

734 45052
748 45052

16 CFR

305 49818
310 48458
1500 49379

17 CFR

200 ..... 47444, 49820
201 47444
202 47444
275 49234
279 49234
Proposed Rules:
1 ..... 47738, 50718
30 47738
140 47738
210 47064

239.....47064
240.....47064
249.....47064
270.....47064
274.....47064

18 CFR

11.....48553
376.....48553
Proposed Rules:
35.....47499

19 CFR

10.....50695
24.....50695
162.....50695
163.....50695
178.....50695

20 CFR

Proposed Rules:
1.....49596
10.....49596
25.....49596
701.....50718

21 CFR

1308.....47451
Proposed Rules:
1308.....47503

22 CFR

40.....45475
42.....45475
62.....48555
120.....46843
Proposed Rules:
124.....48625
126.....48625

26 CFR

1 .....49380, 49394, 49821
31.....49821
53.....46844
54.....46844
301.....49821
602.....49380, 49394
Proposed Rules:
1.....49427, 49428
300.....48880

27 CFR

Proposed Rules:
478.....47254

28 CFR

79.....48274

29 CFR

1926.....47906
4022.....49407
Proposed Rules:
404.....48416
4062.....48283
4063.....48283

30 CFR

938.....48526
Proposed Rules:
56.....49429
57.....49429
938.....46877

31 CFR

560.....48562
561.....49836
Proposed Rules:
50.....45563

32 CFR

199 .....47452, 47458, 47460, 47710, 47712
706.....47210
Proposed Rules:
68.....47504
161.....47515
199.....47519

33 CFR

1.....49408
3.....47211, 48564
100 .....47212, 47215, 50700
114.....49408
115.....49408
116.....49408
117 .....45477, 47217, 47461, 48276, 49408, 50700, 50707
118.....49408
138.....49411
147.....50700
165 .....45055, 45478, 47211, 47713, 47715, 48564, 49412, 49843, 49847, 49848, 50700
Proposed Rules:
173.....49869
174.....49869
181.....49869
187.....49869

34 CFR

Proposed Rules:
222.....49432

36 CFR

242.....48857

37 CFR

201.....47464

39 CFR

111.....47717

40 CFR

Ch. I.....49556
35.....49414
52 .....45057, 45480, 45483, 46845, 47218, 48566, 48579, 48582, 48860, 48864, 50708, 50711
70.....48582
81.....45485, 47218
180 .....46847, 47465, 47475
271.....47223
272.....45489, 47223
300.....47482, 48867
1515.....48585
Proposed Rules:
49.....48880
51.....45075, 45210
52 .....45075, 45076, 45080, 45082, 45210, 45568, 46880, 48627, 48628, 48894, 48895, 50730
60.....47520
70.....48628
72.....45075, 45210
78.....45075, 45210
81 .....45571, 46881, 47746
93.....49435
97.....45075, 45210
98.....48744
112.....45572
131.....45579
271.....47256
272.....45583, 47256
300.....47521, 48895
704.....49656
710.....49656
711.....49656
1039.....47520
1042.....47520
1065.....47520
1068.....47520

42 CFR

410.....45700, 49030
412.....50042
413.....49030, 50042
414.....49030
415.....50042
416.....45700
419.....45700
424.....50042
431.....48816
440.....50042
441.....50042
447.....48816
457.....48816
482.....50042
485.....50042
489.....50042
Proposed Rules:
73.....50730
410.....46169
411.....46169
412.....46169
413.....46169, 49215
416.....46169
419.....46169
482.....46169
489.....46169

44 CFR

64.....49417
204.....50713
Proposed Rules:
67.....47751

45 CFR

1611.....47487
Proposed Rules:
170.....45584

47 CFR

1.....45494
2.....45058
25.....45058
27.....45058
73.....47488
97.....46854
101.....45496
Proposed Rules:
Ch. I.....49870
1 .....45590, 47142, 49871
2.....49871
25.....49871
27.....47142
54.....48236
61.....48629
64.....48629
73.....46885
95.....47142

48 CFR

205.....45072
207.....45072
208.....45072
209.....45072
211.....45072
215 .....45072, 48276, 48278
216.....45072
217.....45072, 48276
219.....45072
225.....45072, 48279
228.....45072
231.....48278
232.....45072
237.....45072
243.....48276
246.....45072
250.....45072
252 .....45072, 48278, 48279, 49849
541.....48872
552.....48872
Ch. 14.....48873
Proposed Rules:
4.....50731

49 CFR

40.....49850
192.....48593
193.....48593
195.....48593
541.....47720
594.....48608
595.....47489
Proposed Rules:
27.....47753
37.....47753
38.....47753
192.....45591
541.....50733
578.....49879

50 CFR

17.....45497, 50814
100.....48857
218.....45527
600.....50715
635.....50715
648 .....48613, 48874, 49420
679.....49422
680.....50716
Proposed Rules:
17 .....45592, 46844, 48294, 48896, 48914, 50739
20.....47682
622.....49447, 49883
648.....48920
665.....45085
680.....48298

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 6080/P.L. 111–230
Making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes. (Aug. 13, 2010; 124 Stat. 2485)
Last List August 13, 2010

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.